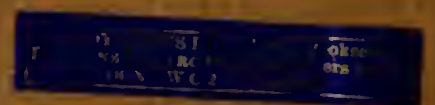


HIGGINS

TRIAL

1712



A Full and Impartial
ACCOUNT
OF THE
TRYAL

Of the Reverend

M^r. Francis Higgins,

Prebendary of *Christ-Church* in *Dublin*;

Before His Grace the Lord Lieutenant and Council of *Ireland*, &c.

Occasion'd by a

PRESENTMENT

OF THE

Grand-Jury of the County of *DUBLIN*.

Let our Strength be the Law of Justice : ———

Therefore let us lie in wait for the Righteous, because he is not for our turn, and he is clean contrary to our doings :

He upbraideth us with our Offending the Law, and objecteth to our Infamy, the Transgressings of our Education.

He was made to reprove our Thoughts :

He is Grievous unto us, even to Behold. Wisdom of Solomon, Chap. 2. v. 11, &c.

L O N D O N :

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JANUARY

Advertisement.

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T H E
P U B L I S H E R
T O T H E
R E A D E R.

TH E Name of Mr. Higgins having been much Talk'd of here about Six Months since, and Papers having been Publish'd which bore hard upon his Character ; I was Tempted to Enquire, thro' that Reverence and Regard which I have for his Gown, what Grounds there were for so much Calumny and Bustle : And my Curiosity, it should seem, has produc'd the following Sheets.

I could not think any Set of Men so hardy, as with weak Endeavours to Mimick that Tryal in Ireland, which had lately cost their Friends and Patrons here so Dear ; And, as they are not without their share of Worldly Prudence, one would have thought the Clergy in no Danger of Insults from the Tail of a Declining Party, whose Attempts upon them, even at their highest Pitch of Power, when Headed by the Ablest and Wisest of the Faction, ended in their own Destruction.

How far the Gentlemen concern'd in this Tryal have over-shot themselves, will appear from the more Politick Behaviour of those here, who us'd to be their Directors ; in their Courting that Power, which they find to their Sorrow they cannot Comptroll, and In-strenuously Promoting, to serve a present Purpose that very Security for the Church, which, but a few Years since, they us'd, when Offer'd, in so Contemptuous a manner, and in the Severest Terms Exploded and Condemn'd : So much with them is their present Interest beyond all former Obligations, and so well do they still approve in themselves, what, Thanks be to God, is at last shut from his Altars, Occasional Conformity.

These Sheets therefore, which have been a good while with me, tho' they concern what has been Transacted at a Distance, I hope will not be Unwelcome to the Publick, nor unuseful, since they are a pretty plain Proof, that the Will remains, however the Pow-

er may be Abated. And I should ask the Authors Pardon, whoever he be, for delaying the Publication so long; but more especially the Reverend Gentleman concern'd, since his Character, which was industriously laid under a Load of Infamy, wanted, he may think, a Speedy, as well as so necessary a Justification: But I must confess, the Minds of good Men having been so wholly taken up with the Momentous Affair of Peace, and the Opposition it met with, I did not know how far a matter of a more Private Nature, might be over-look'd and neglected.

Those Struggles, to the Joy and Satisfaction of all well Wishers to the Publick, are pretty well over; We have liv'd to see her Majesty give convincing Proofs, of what so early came from her Mouth, a Heart Entirely English; and to have a Ministry who, far from being so Fashionable as to Compliment their Allies with every thing, have obtain'd Conditions for this Kingdom, which none can Censure, but such as think them too Good.

We are now in all Probability, drawing to a happy conclusion of a War, whose Yoke was purposely made easy to many, and the rest by length of Time and Habit, were grown almost Senseless of the Burthen. We may now expect to make an Honourable end, with a Troublesome, Powerful, and Subtle Enemy; as well as with Allies, who are so very good Friends to themselves; When it is to be believed, those, who at so much hazard to themselves have by their Resolution, and Firmness, effected this Great Work Abroad, may apply some Share of that constancy and Integrity towards a more perfect Settlement at Home: And her Majesty may have Leisure to give some Check to this Spirit of Irreverence, and Ill-manners towards her Clergy, whom she has Fed, and Nourish'd with her Care and Bounty, both here and in Ireland, and reviv'd, when Dying in Scotland, by the Assistance of her Wise and Great Council in Parliament, That the Church, which she ever has had so much at Heart, by her means secur'd throughout her Dominions, may descend and Flourish to latest Posterity.

The Lords of the Council that Voted for and against Mr. Higgins.

Affirmative.	Affirmative.	Affirmative.	Negative.
Lord Lieutenant,	Bishop of Kildare,	Lieut. Gen. Stewart,	A. B. Dublin
Lord Chancellor,	Kerry,	Tho. Keightley Esq;	Kildare,
A. B. of Tuam,	Chan. of the Exchequer,	Edw. Southwell Esq;	Montrath,
Anglesey,	Lord Chief-Justice Cox,	Sir Joh. Percivale Bar.	Blessington,
Abercorn,	Ld. Chief-Bar. Rochfort,	Sam. Dopping Esq;	Mountjoy,
Bishop of Meath,	Sir Charles Fielding,		B. of Clogher

A Full and Impartial Account of the
TRYAL
 Of the Reverend
Mr. Francis Higgins, &c.

S I R,

IN Obedience to your Commands, I have sent you a full and impartial Account of the late Proceedings against Mr. *Higgins*; and I have also observed your Directions in annexing the *Presentment*, with the other Papers which were Consequent to it, that there might be no Interruption in the ensuing Narrative.

That some Prosecution of Mr. *Higgins* was resolv'd on before the Sessions, is highly probable from several Discoveries that were made during the TRYAL; some Justices, who seldom attended at any other time, appeared at this Sessions, and Mr. *Clotworthy Upton*, a Presbyterian Elder of another County, assisted on this Occasion.

Besides the particular Malice of the Party to Mr. *Higgins*, they were of late provoked by the Disgrace of some of their fast Friends, Three Factious Justices, in *Ulster*, were for several illegal Practices on a Publick Hearing, Superseded by the Lord Chancellor, and their Abettors watch'd the first Opportunity to make a Reprizal.

To this end, at the usual Entertainment of the Sessions held at *Kilmainham* the 4th of *October*, 1711. several Healths were propos'd; to some of which, Mr. *Higgins* made, (as he thought) necessary Amendments, which as will appear by the course of the Evidence, were laid hold on as the Occasion of the ensuing Quarrel and *Presentment*.

The Justices who were present (four only excepted) readily allow'd of the *Presentment*, and together with the *Grand-Jury*, waited on the Lord Chancellor with it. They urged, That an Application from so Great a Body, was sufficient Reason to remove Mr. *Higgins* from the Commission of the Peace. His Lordship told them, That tho' he had a due regard to such an Application, yet Mr. *Higgins* was a Justice of Peace, he cou'd not condemn him Unheard, and that he wou'd appoint a Day for a publick Hearing; but they rejected the Offer, and expressed their Surprize, that his Lordship shou'd distrust the *Verbal Testimony of so many Gentlemen of Quality and Honour*.

Serjeant Saunders.
Ja. Grace, Esq;
Lau. Grace, Esq;
Reverend Mr. Ferneley.

The next Day the Lord Chancellor laid the *Presentment* before the Lord Lieutenant and Council, who on mature Deliberation resolv'd to consider the Allegations contain'd in it, and commanded Mr. *Higgins* to put in his Answer.

This Resolution alter'd the Measures of the Managers, they pretended Ignorance of it, and went again to the Lord Chancellor in a greater Body to pray a Hearing before him. His Lordship told them, That they having declin'd his Judgment, he had laid the *Presentment* before the Lords of the Council, who wou'd give them due Notice of the Day of Tryal, and Indulge them in time if they were not prepar'd for it.

Mr. *Molesworth* in the name of the rest Answered, That they had a *Volume against Mr. Higgins, full Measure and running over*; and he and several others of them then confidently denied that his Lordship had before offer'd them a Hearing; and they do still persist in this Assertion, tho' many Persons of Quality who were present when they first came to the Lord Chancellor with the *Presentment*, have often Declar'd that the Justices refus'd his Lordship's Proposal of a Tryal before him.

The Managers being thus Disappointed in their second and more Importunate Application to the Lord Chancellor, were still more perplex'd how to Prosecute the Cause they had Engag'd in; Daily Consultations were held, and Emissaries were Dispatch'd into all Corners, to *Procure Informations*; a Mass of Indigested Slander was Collected, which was afterwards Refin'd and Embellish'd with Plausible Circumstances, by a *Select Junctō at the Rose-Tavern*; and the Lord Santry's Province was to *Swear in the Coffee-House, to the Truth of each Particular*.

But this well-laid Scheme was in some Measure broke, by an Order of the Lord Lieutenant and Council, confining them to the Allegations *App. Num. 4.* in the *Presentment*; all the Justices were Equally concern'd in the Complaint, and tho' the Lord Santry ought in Decency to have Appear'd with less Vehemence in his own Cause, yet the rest of the Justices, whether Diffident of the Success, or unwilling to Share in the Expences of the Tryal, Cautiously withdrew, and Encourag'd his Lordship, to Engage singly with Mr. *Higgins*, whom he had so lately Accus'd of *Bullying the whole County*.

A Petition in Lord Santry's Name was immediately drawn; 'twas *App. Num. 5.* soon after Presented, and a Day of Hearing was appointed by the Lord Lieutenant and Council.

When the Parties and Council on both Sides were call'd in; the *27th October. 1711.* *Presentment*, Mr. *Higgins's* Answer, the Orders of Council, and Lord Santry's Petition, were Publickly Read.

Then the Lord Chancellor Admonish'd the Petitioner's Council to Limit their Proofs to the particular Charges in the *Presentment*, and to such Instances of the General Charge as related to the Office of a Justice of Peace.

The Council for Lord Santry were Mr. *Aston*, and Mr. *Gore*.

Mr. *Aston* open'd the Cause with a *Cold Profession* of his Respect for the Establish'd Church and Clergy; He complain'd of a Malicious Report, that the *Presentment* of Mr. *Higgins* was a Combination against the whole Order; and he Remark'd, that an Offending Member might be Prosecuted without any *Reflection* on the Body.

He Charg'd Mr. *Higgins* with Five Heinous Crimes: viz.

Compounding a Felony.

Inflicting a Corporal Punishment contrary to Law, by Ordering a Person to be Whip'd.

Oppression, in Exacting a Penalty of half a Crown for the Loss of a Furze-Bush.

Insulting Lord Santry at the Sessions.

And formerly Drinking Confusion to all Dissenters.

And in the Article of Whipping he Observ'd, that the Good Christian Doctor, Distributed a Switch or a Cane as the Criminal pass'd by him.

Mr. *Gore* Insisted on the same Particulars, and further Observ'd,

That if a Recommendation of two Members of the Privy-Council, cou'd Influence a Lord Chancellor to put a Gentleman into the Commission of the Peace, an Application from the *Body of the County* was Sufficient to turn him out.

That the Preservation of the Peace does not altogether Consist in refraining from Acts of Violence, but in Maintaining the Unity and Peace of the County.

That

That if one Gentleman draws one way, another Justice draws another way; they will Consequently draw Different Ways, and nothing but Discord and Division will follow.

That Mr. Higgins at the last Session Insulted Lord Santry, and other Gentlemen of known Worth and Loyalty. That he Slander'd Mr. Broderick when Speaker of the House of Commons; a Gentleman well Affected to the Constitution in Church and State: He Revil'd Mr. Foster the present Speaker, chosen to that Office by all the Commons of Ireland, and at the time when he was Attorney-General, and Recorder of the Metropolis of the Kingdom.

That he Affronted Mr. Nuttall in a Coffee-House on the Sabbath-Day, and by Groundless Suggestions of Designs against the Church, that the Days of *Forty One* were coming in again, he has Endeavour'd to Create Jealousies amongst her Majesty's Protestant Subjects.

When he had ended, Lord Anglesey said he was unwilling to Interrupt that Ingenious Gentleman while he was speaking, tho' he mention'd several Things which were Foreign to the Presentment, and he hop'd that in the Progress of the Tryal the Petitioners Council wou'd make no more Unnecessary Excursions, and would Punctually observe the Directions of the Board, Intimated to them by the Lord Chancellor.

The Witnesses call'd by the Petitioner's Council to prove the Composition of the Felony, as it is Stated in Lord Santry's Petition, were *Daniel Wybrants Esq;* Mr. *James Stenhouse*, *James Connor*, *James Farrell*, and *Samuel Brown*.

The Testimony of Mr. Wybrants was throughout very Confus'd and Uncertain: He at first Swore, that he took the Examinations of Mrs. *Margaret Higgins*; and the Reverend Mr. *Hall*, and three Recognizances of the Receivers of the Stolen Goods to appear and Prosecute, and that he gave them to Mrs. *Higgins* to deliver them to her Brother, to be returned by him to the Clerk of the Peace, because he fear'd the Gout would hinder him from going to the Sessions, and he Committed the Criminal to the County Goal.

Being further Examined, he Swore that he took the Examinations of Mrs. *Higgins*, and from another Person, whom he knew not; upon second Thoughts he took the Examinations of two or three Persons besides Mr. *Hall*, and upon further Recollection that he Examined only Mr. *Hall* and Mrs. *Higgins*.

That he bound over two or three Persons to Prosecute, from whom he took no Examinations, he wrote the Recognizance in a piece of Paper torn out of a Book, and not at the end of the Examinations, as is the General Practice; and he own'd that neither Mr. Higgins nor any Person by his Order, directed him to Deliver the Examinations and Recognizance to his Sister.

The Lord Chancellor observ'd on this Occasion, that it was a very uncommon Practice, for a Justice of Peace to send Recognizances to the Prosecutor, and that it was the Duty of Mr. Wybrants, either to have Deliver'd them himself to the Clerk of the Peace, or sent them to the Sessions by his own Clerk.

Mr. Stenhouse Swore, that Mr. Higgins deliver'd to him in Court some Papers Concerning *Jane Loyd*, which he put into his Pocket without Viewing them; he was told by *Lorde* the Jaylor, that *Jane Loyd* was turn'd out of the Dock by the Order of Mr. Higgins, tho' she did not actually go away, but Assisted in the dressing of Dinner; that he himself heard Mr. Higgins say that she was his Servant, and that he wou'd rather have her Whipp'd, than Try'd for the Felony.

He added, that upon opening the Papers he receiv'd from Mr. Higgins, he found but one Examination, and no Recognizances; that he open'd them at Night when he went to his Lodging, the next Morning he drew a Bill of Indictment against *Jane Loyd*, which was found by the Jury, that he call'd the Prosecutors in Court, and when none appear'd, the Prisoner was discharg'd by Proclamation; and he never told Mr. Higgins that the Recognizances were wanting.

Mr. Stenhouse was again Examined on the Second Day of hearing, the Evidence he then gave shall be mention'd in it's due Place, and its Disagreement with his first Testimony.

Margaret

Note, These two Persons were Examined on the second Day of hearing, and their Testimony is here related in its proper Place.

Margaret Ashmore Swore to Mr. Higgins's Discouraging with the Jaylor concerning *Jane Loyd*, and that Mr. Higgins told him if he had not return'd her in Calendar he wou'd have her turn'd out, and *Neal Graham* was a Witness to the same Effect.

James Connor Swore, that in his Daughter in Law's House, some Linnen were found which were Stolen from Mr. Higgins, and were not worth Six-pence; that he and *Elizabeth Farrell* fearing Mr. Higgins wou'd put their Daughters to Trouble for receiving some of the Linnen, came to *Dublin*, and after much entreaty prevail'd upon him to write to his Wife, then at *Balruddery* to agree with them; upon the receipt of the Letter she agreed with him for Ten Shillings, and with the other two Persons who had also receiv'd a part of the Linnen for Ten Shillings each: That he believ'd on perfection of the Note his Daughter was to be freed from Prosecuting *Jane Loyd*, and therefore she did not appear at the Sessions, and the Agreement with Mrs. Higgins also stopp'd his going there.

Connor being cross Examined, own'd that he could not Read, that Mrs. Higgins read her Husband's Letter to him, that the Contents of it were to agree with him. He said further, that he was to be discharg'd Attendance at *Kilmainham* on bringing back a Note to Mr. Higgins from his Wife, which she never gave him; that Mr. Higgins never told him, that he must appear at the Sessions, but that Mr. Hall, who drew the Note, told them before they Sign'd it, that notwithstanding the Agreement they must go to the Sessions and Prosecute *Jane Loyd*.

The Evidence of *James Farrel* was hearsay only, namely, That his Son was bound to appear at the Sessions, but made Conditions, and therefore he was dismiss'd without further Examination.

Samuel Brown Swore, that he joyn'd with his Wife in a Bond for Ten Shillings to excuse her from appearing at the Sessions for Linnen found in his House worth about Four Shillings, that he was also Bound for his Wife's Appearance, that his Wife who was to Prosecute gave no Examinations, and he afterwards confess'd that he Sign'd the Bond given to Mrs. Higgins without reading it, and he believ'd that the Bond contain'd nothing that the Theft shou'd not be prosecuted at *Kilmainham*.

The Witnesses produc'd to the Second Article of the Charge were *James Farrell*, and *Thomas Field*.

Farrell Swore, that Mr. Higgins Seven Years ago order'd Three Men to Whip one another for Stealing two or three Sheaves of Oats from one of his Tenants, Mr. Higgins gave one of them a Stroke with a Switch, and that he being then Constable, was not commanded by Mr. Higgins to Whip them.

Field Depos'd to the same Effect, that Mr. Higgins gave one of them a Stroke, and then said, That he wou'd Whip them if they did not Whip one another.

To the Third Instance of the Charge, which, as is suppos'd, was purposely omitted in Lord Santry's Petition, that his Adversary might not be prepar'd to Answer it.

The same *Field* Swore that he Cut a Bundle of Furce, not worth a Half-penny, on an open Piece of Ground belonging to Mr. Higgins, that for this Trespass Mr. Higgins demanded Two Shillings and Six-pence; Mr. Higgins had Six-pence of it in his Hands, and the Constable was Bound for the Payment of the Remainder, which was not yet paid by him.

Then the Petitioner's Council proceeded to the Proof of Mr. Higgins's Turbulent Behaviour, and his Insulting the Lord Santry at the last Sessions.

The Justices who allow'd of the Presentment were the Witnesses to this Point.

The Council for Mr. Higgins objected against their Evidence on the Pretence that they were Parties in the Cause, but they presently acquiesc'd in the Opinion of the Lord Chancellor, that their Testimony cou'd not be rejected; and that the Lord Lieutenant and Council wou'd afterwards consider how far they ought to be Credited.

Thomond Blackhall Esq; Depos'd, that at the last Sessions, most, if not all the Justices were Uncover'd in the Dining-Room, except Mr. *Higgins*; when Lord Santry came in Mr. *Higgins* Cockt his Hat, putting it on in a *Fleering Manner*; and his Behaviour was the same towards Mr. *Whitshed*.

That after Dinner Lord Santry began a Health to the Glorious Memory of King *William*, to which, Mr. *Higgins* added, under whom we enjoy'd all that we had, and to another Health, that the Laws may be the Rule of our Obedience, he added somewhat which he did not well Remember.

That Mr. *Higgins* Aped Lord Santry's Words and Gestures, but he could not recollect his saying any thing that was Rude, except that he was *Inter Pares* as to the Commission of the Peace, that he was as good as his Lordship, Bateing his Peerage, and that he Repeated a few Verses to this Effect, that *Some Men stretch their Jaws as Coblers do their Leather*.

That the Justices were an Hour together before Lord Santry came into the Room, and no Dispute arose between Mr. *Higgins* and any of the Company, before his Lordship's coming in.

That the Gentlemen of the County had no Contests but when Mr. *Higgins* came amongst them, and every time he came, there were always Feuds, and being ask'd how often Mr. *Higgins* and he had been together, at former Sessions? He Answer'd, *three or four Times*, and to another Question, how many times he remember'd that Mr. *Higgins* had rais'd Disputes? He Answer'd, *Once*, with Coll. *Forster*.

Coll. *John Allen* Foreman of the Jury, who presented Mr. *Higgins*, Swore, that Seven Years ago at the Sessions, he heard Coll. *Forster* and Mr. *Higgins* Discourse concerning the Revolution; that when Mr. *Forster* Drank to the Glorious Memory of King *William*, Mr. *Higgins* said, what has that Old *Buck* to do to Prescribe Healths to us. Sir *Richard Bulkeley* then told him that Mr. *Higgins* Drank *Confusion to all Dissenters*, and he tho' present, did not hear it.

And being ask'd whether the Presentment of Mr. *Higgins* was founded on any Evidence laid before the Jury, he refus'd to make any Reply, tho' the Lord Chief-Justice of the Queen's Bench told him that the Question was fair, and not Inconsistent with the Oath of a Juror.

Edward Swan Esq; Swore that about Six Years ago, when a Health to the Glorious Memory of King *William* was going round, Mr. *Higgins* Drank *Confusion to all Dissenters*, and Sir *Richard Bulkely* said, *Lord what do I hear, Conversion if you please*: But on Cross Examination he own'd that he sat at another Table, a great Distance from Mr. *Higgins*, and neither heard what he said in return, nor how he explain'd it.

That Mr. *Higgins* always at the Sessions rais'd *Heats and Feuds about Arguments*, and at the last Sessions, put on his Hat as he was told with an intent to Affront Lord Santry, that he did not observe any Misbehaviour in Mr. *Higgins* towards Mr. *Whitshed*, or any other Person.

That the *Modus* of his Discourse was Insolent, he was Noisy and Loud, that he cou'd not Describe the manner in Words, and being further Press'd to Explain the *Modus*, he said, that he Laugh'd in Contempt of Lord Santry, and Disturb'd the Company by Expounding the Healths Nam'd by his Lordship: He added the Revolution to the Memory Health, and when a Health was propos'd to those who make the Laws the Measure of their Obedience, Mr. *Higgins* said he hop'd the Queen's Prerogative was excepted, and that Obedience which is due to the Lord Lieutenant as her Vice-Gerent; Lord Santry reply'd, so it ought to be, and I have as great an esteem for the Person and Government of my Lord Whart—Ormond, as any Gentleman in the Kingdom.

Mr. *Swan* was much perplex'd how to answer a Question Propos'd by Lord Anglesey, That since he own'd the Healths as Expounded by Mr. *Higgins*, had offended the Justices, whether they, and how many of them were Disturb'd at that part of his Exposition, concerning her Majesty's Prerogative, and obeying her Lord Lieutenant. He seem'd rather to Shift the Question than to Answer it Directly, and the Question was Difficult to him, who at a former Sessions Concurr'd in rejecting an Address to the Duke of Ormond soon after he was Declar'd Lord Lieutenant.

The next Witness for Lord Santry was *Hugh Rowly* Esq; When he was call'd, Mr. *Molesworth* said to a Privy-Councillor who Sat next him, that Mr. Rowly was a very honest Man, a *Presbyterian*, and would not tell a Lye for the World.

After much Hæsitati^{on}, he Affirm'd that he heard Mr. *Higgins* Drink Confusion to all Dissenters with his Hands lifted up, yet he own'd that Mr. *Higgins* then sat at as great a Distance from him as he possibly cou'd in a large Room; that Mr. *Swan* and he Sat together at a little Table at the Upper part of the Room, and Mr. *Higgins* at the Lowest end of a long Table.

Being ask'd what Health was propos'd Immediately before Mr. *Higgins* Drank Confusion to Dissenters, he Answer'd that he did not well remember Healths, and cou'd not Charge his Memory with what pass'd so many
App. N. 6. Years ago, and this Answer was the more Remarkable, because in a *Voluntary Oath*, which he Printed some Days before the Hearing, he Depos'd, that the Health then going round, was to the Glorious Memory of King *William*.

The first Days hearing was Concluded with the Testimony of *Joshua Allen* Esq; who Swore, that when Lord Santry Profess'd his Esteem for Lord *Whart. Ormond*, Mr. *Higgins* ridicul'd him saying, *Treason or Murder will out*. And tho' at the Sessions he Affirm'd on his *Word and Honour*, that Mr. *Higgins* Laugh'd at some Private Discourse with him, yet now he said, that he spake those Words only to Pacify his Lordship, and to put an End to the Quarrel.

That when Coll: *Allen* came into the Room, Mr. *Higgins* ask'd if he was come to Propagate Loyalty in the County of *Dublin*, tho' he afterwards begg'd his Pardon for that Reflection on his Father.

The Council for Lord Santry enlarg'd on this part of the Evidence, they said such Ironical Expressions tended to disturb the Publick Peace, tho' others are of Opinion, that the Question was not altogether so Criminal; and that 'tis a Moot Point whether the Father or the Son have the best Pretences to Loyalty, the Father has often declar'd in the House of Commons, that he never had Voted nor would Vote for a Money Bill: And 'tis an unquestionable Mark of Loyalty to a Government, to refuse that Supply which is necessary to Support it; and the Son lately said in the same House he was Inform'd without Doors that the Queen Intended soon to retire to a Monastery, to make way for the Pretender; and to the Immortal Honour of those Noble Assertors of Revolution Principles, this Treasonable Expression was neither resented by the House, nor any one Member that heard it, except One.

The Council for Mr. *Higgins* were the Attorney and Solicitor
 31st, October. General.

The Attorney Briefly open'd the Defence for his Client; He spoke against the matter of the Presentment, and the manner of Procuring it, that the Grand-Jury Acted contrary to Law, in presenting one of their Judges; and if such Presentments were Encourag'd, evil Consequences wou'd arise from them, the Dignity and Power of the Bench would be Diminish'd, and the Jury would Gradually lose that Deference and Respect, which are due to those who Preside over them.

He observ'd, that the Jurors were often Persons Accus'd before the Justices; and this Example wou'd furnish them with an Excellent Expedient to save themselves and Terrify their Judges; and by this new Artifice, a leading Man of a County might Influence a Majority to Present any Justice who Presum'd to offend him, and thereby Deprive the Queen of her *Prerogative*, to regulate the Commission of the Peace.

That the Testimony against Mr. *Higgins* was Defective and Contradictory, that the Prosecutors Produc'd no Evidence to two Points Alledg'd In Lord Santry's Petition, and mention'd by his Council, viz. That Mr. *Higgins* had Tamper'd with their Witnesses, and that Persons in Office refus'd to appear against him; and therefore, it was to be Presum'd, that those Suggestions were altogether Groundless.

The Solicitor General spoke to the Nature of the Accusation of Mr. *Higgins*, and the Illegality of it; he explain'd the proper Business of a Grand-Jury, and shew'd the utmost Limits of their Power, that they ought to Present only by
 Legal

Legal Information on Oath, or their own Personal Knowledge, that the Jurors are term'd in the Law *Conservatores Pacis pro Domina Regina*, and breakers of the Peace are no where said to act *Contra Pacem Populi*.

That if the Evidence brought to support the Presentment, had fully prov'd, that Mr. *Higgins's* Behaviour was rude towards Lord *Santry*, yet ill Manners was a slender Foundation for so heavy a Charge, and Mr. *Higgins* was not so formidable a Man as to terrify the Body of the Justices, to *break the Unanimity*, and *Disturb the Peace of a whole County*. He proceeded to give a Character of Mr. *Higgins*; he mention'd the Unanimous Testimony of the Representatives of the Clergy in Convocation. *Appen. Num. 7.* But was restrain'd from reading it, because it was no proper Evidence to be produc'd.

Then the *Lord Chancellor* directed the Petitioner's Council to prove the Allegations of *Tampering* with their Witnesses, and that Persons in Office express'd an Apprehension of drawing *Inconveniences* on themselves, should they give any Evidence against Mr. *Higgins*.

And *Lord Anglesey* observ'd, that they were particularly bound to prove that Part of the Petition, beause it contain'd an Insinuation which highly Reflected on the Justice and Honour of the *Lord Lieutenant and Council*, that those Persons in Employment who had vilify'd the Honourable Board ought to be discover'd, or have an opportunity of Clearing themselves if they were falsely Accused.

Mr. *Aston* readily undertook to prove both Particulars, and Mr. *Andrew Caldwell*, Agent for Lord *Santry* in this Cause, was call'd upon to the Point of *Tampering* with their Witnesses.

Caldwell Swore, that he lodg'd Three of Lord *Santry's* Witnesses at an Inn near to his own House, to prevent any *Tampering* by the opposite Side; that one Morning Mr. *George Higgins* carry'd them in a Coach to the Office of Mr. *Hale*, who is Attorney for his Brother, and passing by occasionally through that Street, he saw two of them at the Door of the Office; *Hale* was first deny'd to be within, and when he was admitted, Mr. *George Higgins* went behind the Door, and he found *Hale* drawing up an Examination of one of them, viz. *Elizabeth Farrell*, who he own'd was no *Material* Witness, had not been before examin'd by him for Lord *Santry*, and she was not again summon'd, because there was no occasion for her Testimony. Being ask'd in what manner he found them tampering with *Farrell*, he own'd he neither heard at that time, nor from any other Person since, that they had *brib'd or threatn'd* her, and the *Lord Chief Justice of the Queen's Bench* observ'd, that the only Methods of *Tampering* acknowledg'd in the Law are by *Promises of Reward, or Threats of Punishment*.

One *unguarded* Expression drop'd by Mr. *Caldwell* in the course of his Evidence, occasion'd a Discovery of the frequent Consultations of the Justices how to Prosecute the Accusation of Mr. *Higgins*; His saying, that *Elizabeth Farrell* had not been Examined by him before she went to *Hale's* Office, gave Cause of Suspicion that he afterwards privately Examined Her and other Persons.

Upon Enquiry, he confess'd, tho' with great Reluctance, that he had Examined in the *Rose Tavern* several Witnesses for Lord *Santry*, and at different Times, in order to *prevent their going back in their Evidence*, that either he or his Clerk drew their Affidavits, and the Examinants were Sworn in the *Tavern* by Mr. *Boate*, a Master in Chancery.

He own'd, that most of the Justices of the County were then together in the same *Tavern*, that several of them came into the Room in which the Witnesses were during their Examination, and he remember'd only Lord *Santry*, Mr. *Carter*, Mr. *Joshua Allen*, and as he believ'd Mr. *Nuttall*, Lord *Santry's* Solicitor, and tho' he was desir'd by a Noble Lord to look round the Chamber and the Board, whether he saw any other Justices who were present while the Witnesses were Examining, yet he was pleas'd to recollect the Names of no other Persons, tho' Mr. *Forster*, a remarkable Man, and most of the Justices then stood near him; and 'twas afterwards prov'd, that they were present at the *Rose Tavern*.

It was then observ'd by the *Lord Chief-Justice of the Queen's Bench*, That no Master in Chancery ought to take Examinations except on Chancery Business ; and the *Lord Chancellor* said, it was a new and illegal Practice privately to Examine those who are Summon'd to give a publick Testimony, because it ty'd them down to their first Evidence, and depriv'd the Opposite Party of the Benefit of a Cross Examination, and that Persons us'd to be Committed in *England* for drawing up Affidavits before the Witnesses were produc'd in Court.

When the Charge of tampering with their Witnesses met with such an unexpected Turn, the *Lord Santry's* Council proceeded to prove the other Allegation in the Petition, That *Persons in Office were apprehensive of Danger, if they appear'd as Witnesses against Mr. Higgins.*

William Willock, *Mr. Caldwell's* Clerk, was the only Evidence in this Point. He swore that he Summon'd all *Lord Santry's* Witnesses, and he mention'd the several Answers of those who were unwilling to appear.

Simon Casey, and *Thomas Johnston*, two mean Persons, who live at *Balruddery*, refus'd to come. *Dr. Hall*, Vice-Provost of the College, said, He thought that he might be excus'd. And *Mr. Withrington* an Attorney, wonder'd that *Mr. Nuttall* wou'd be so troublesome to him. The first time he Serv'd *Mr. Shrigley*, he answer'd, that he wou'd obey the Summons ; and accordingly he attended the Publick Hearing : He went again to his House with another Summons ; one Servant said he was within, two others deny'd it ; he then rode to his Country House : All his Servants agreed that he was not at Home. But as he was going away, *Mr. Shrigley* call'd him, and when he read the Summons, came immediately to Town, and he neither express'd any fear of *drawing Inconveniencies* on himself if he appear'd, nor spoke any thing to that Effect.

He added, that one *Mrs. Thornton* said, She-wou'd not appear tho' they shou'd drag her at a Horse's Tail ; and being ask'd who she was, He answer'd that she was a *Pye-maker who lives in Drogheda.*

This Point was more fully clear'd by a Proposal made by *General Stewart*, that the Names of all the *Lord Santry's* Witnesses for whom Summons's had been ask'd shou'd be read by the Clerk of the Council, and *Mr. Shrigley*, who is Deputy Overseer of the Barracks, was the only Person in Office among them.

After so long an Interruption, the Witnesses for *Mr. Higgins* were call'd to the several Crimes alledg'd against him.

His Council began his Defence with the *Article of Whipping*, and the Witnesses to this Point were *Simon Casey*, and *Henry Gernon.*

Lasey, the same Person who as *Cadwell's* Clerk Alledg'd, (refus'd to obey the Summons) swore, That seven Years ago, three Men who liv'd at *Newry*, broke his Garden Hedge, and stole from thence several Sheaves of Oats, that he pursu'd them with a Constable, and brought them before *Mr. Higgins*, where they were Convicted by his Examination upon Oath and their own Confession ; that they begg'd *Mr. Higgins* upon their Knees, rather to inflict a Corporal Punishment upon them, than send them to Jail, because they and their Horses wou'd be Starv'd, and their poor Families who depended on their Labour, wou'd be reduc'd to Beggary ; and they also entreated all the Inhabitants of *Balruddery*, and a Gentleman then travelling through the Village, to intercede with *Mr. Higgins* to comply with their Request. *Mr. Higgins* granted it, and order'd *James Farrell*, the Constable to appoint some Person to Whip them, which he and all the People present refus'd to do, for fear the *Northern-men* should afterwards burn their Houses.

Mr. Higgins then wrote a *Mittimus* to carry them to the County Goal, but they made a *voluntary* offer to Whip one another, which was accepted by *Mr. Higgins*, and he who was the *Prosecutor* consented to it ; they stripp'd themselves a little, Whipp'd one another gently, and for a short time, and were not ty'd to a Tree, but run round it.

That *Mr. Higgins* gave them no Stroke, and he did not remember that he had any Switch in his Hand.

That the Criminals were so far from complaining of the severity of the Punishment, that they return'd *Mr. Higgins* Thanks, and acknowledg'd it as an Act of *Great Compassion and Charity* ; that the Town of *Balruddery* has been since freed from such Pilferers, and as he believ'd they had by that Punishment sav'd Forty Pounds worth of Corn.

Gernon

Gernon Depos'd to the Truth of the same Particulars; That *Simon Casey* brought the Horses and the Oats that were Stolen to his Pound; the Persons Apprehended Confess'd the Fact, and earnestly Pray'd that they might not be sent to Goal, when the Constable refus'd to Whip them, they offer'd to Whip one another; that he with others prevail'd on Mr. *Higgins* rather to Punish them in that manner, than commit them to Prison, they strip'd themselves, were very Merciful to each other; they ran round the Tree but a few Minutes, and no Blow was given them by Mr. *Higgins* or any other Person but themselves.

Five other Witnesses were ready to be produc'd to the same Point, but Mr. *Higgins* was willing to shorten the Tryal, and to give no Unnecessary trouble to the Lord Lieutenant and Council.

That the Sentence pass'd by Mr. *Higgins* in this Case was agreeable to Law, the *Solicitor General* Argued from the express Words of the Statute, 15. Carol. II. Cap. 2. where,

Breaking a Garden or Orchard Hedge, and Robbing it, is made a Trespass, and Punishable by Whipping, or Satisfaction to the Party, at the Discretion of the Justice.

'Twas Objected by Mr. *Gore*, that Whipping was not the Legal Punishment for Stealing Corn that was Stack'd, but of that only which is standing in the Field; and he laid hold of one Expression in *Casey's* Evidence, that besides the Sheaves which were taken out of his Garden, he found a few more traml'd under their Horses Feet, and he thence Inferred, that the Quantity Stolen, and the Damage, amounted to *Felony*; and that they ought to have been Prosecuted for it.

Lord *Anglesey* then Observ'd how the Petitioner's Council shifted the Accusation, at first they insisted on the Severity of a Corporal Punishment for so Inconsiderable a Trespass; and now the Penalty was too little for so Great a Crime.

The next Step, was to Clear Mr. *Higgins* of the Imputation of Compounding a Felony: The *Solicitor General* said this was a heavy Charge, because such Compositions are highly Criminal, and are term'd *Theft Boot* in the Law; and had this Article alone been fully prov'd, Mr. *Higgins* wou'd have been justly liable to a severer Punishment than a Removal from the Commission of the Peace, but the Innocence of his Client in this Part of the Accusation wou'd plainly appear by the Testimony of Mr. *Hall*, Mrs. *Margaret Higgins*, Mr. *George Higgins*, Mr. *Hale*, and several others.

Mr. *Hall* Swore, that he acquainted Mr. *Higgins* by Letters with the Theft Committed by *Jane Loyd*, that some Parcels of the Linnen were found in the Custody of *Frances Brown*, and other Persons: He desired his Directions what to do with the Woman who Stole them, and also an Account from Mrs. *Higgins*, what Linnen she had at *Balruddery*.

He receiv'd an Answer from Mr. *Higgins*, Directing him, if the loss was not more Considerable, to dismiss *Jane Loyd*, and to give her a Crown to carry her to her Friends in *Wales*, because she was a decay'd Gentlewoman, whom he took into his Family out of *Charity*, and she was sometimes Disturb'd in her Head, which was Occasion'd by Cruel Usage she had lately receiv'd from a French Privateer, and a Close Confinement in *France*.

But on reading an account of the Linnen, a greater Quantity was Missing; then he and Mr. *Higgins's* Sister carry'd *Jane Loyd* and the Receivers of the Goods before Mr. *Wybrants*, who desir'd him to Write the Examination of Mrs. *Higgins*; the said Mr. *Wybrants* Examin'd *Jane Loyd*, and took four Recognizances which he deliver'd to him, to send to Mr. *Higgins* to make what Use he pleas'd of them. The Examination of no other Person except Mrs. *Higgins* was taken, and the Recognizances were Written in two Scraps of Paper torn out of a Book, and were scarce Legible.

That he sent the Examination and Recognizances to Mr. *Higgins*, and on the Morning of the Sessions he saw them in the Hands of Mr. *Higgins*, who put them in his Pocket, having first folded the Recognizances in the Examination, he attended Mr. *Higgins* to *Kilmainham*, and left him Sitting on the Bench in Court.

That he Wrote the Note for the Thirty Shillings by the Directions of Mrs. Higgins only, and before the Signing of the Note he told the Persons bound over by Mr. Wybrants, that they were still oblig'd to Appear at the Sessions, and Prosecute the Criminal ; and that neither Mr. Higgins, nor his Wife, gave them any Directions not to appear at Kilmainham, or the least Intimation that by this Agreement they were Releas'd from the Bonds they had given to Prosecute.

Mrs. Margeret Higgins Swore, that she found some Linnen Stolen from her Brother, in the Custody of several Persons in Balruddery, and she gave an Examination before Mr. Wybrants against the Woman who stole them : That she was present when a Computation was made of the value of the Goods which were not found, and a Bond for Thirty Shillings was given for them by the Receivers, that she never told the Persons who join'd in the Bond they were not oblig'd to appear at the Sessions, and she believ'd, that the Note was given not to prevent the Prosecution, but only to Satisfy for her Brothers Losses ; she further said, that a Misfortune of breaking her Arm twice a little before the Sessions, hinder'd her from going there, and that another Person bound over to Prosecute at the Sessions was in Child-bed at that time.

Mr. George Higgins Swore, that he was in his Brother's Chamber when Elizabeth Farrel, and James Connor came to Discourse with him about the Linnen found in their Daughter's Houses, and as they were going away, his Brother told them that he found his Goods among them, and they must appear at their Peril, and Prosecute Jane Loyd.

Note, he was Examined on the 4th Day of the Hearing but his Testimony may be more regularly Inserted in this Place.

Mr. Hale Swore, that Mr. Higgins sent him to the Jaylor to desire him to put Jane Loyd in the side-Bar, and not to keep her in the Dock among the Common Prisoners, because she was a Good Man's Child, that she went out of the Dock into the Kitchen, to assist in the Dressing of Dinner, and he believ'd that Mr. Higgins did not send him to the Jaylor with any Intention to get her Discharg'd.

This Affair was put into a clearer Light by Mr James Stenhouse, who being again examin'd, Swore, that to the best of his Knowledge he open'd the Papers when Mr. Higgins deliver'd them to him in Court, but did not then Examine them ; he was Confident that he had not lost any which were given him, because he put them in a Pocket by themselves, tho' he afterwards Own'd that they were mix'd with other Papers which did not relate to the Business of the Sessions.

That he search'd his Pockets when he went Home, and he afterwards Confess'd, that he did not draw the Bill of Indictment until the next Morning, and he believ'd, that in his Enquiry the Night before he shou'd have found the Recognizances, if there had been any, tho' he did not Enquire for them in Particular. Being ask'd whether he knew of the dispute between Lord Santry and Mr. Higgins, when he drew the Indictment against Loyd ? He answer'd, that he drew it the first Night after the Sessions began ; and at that time heard nothing of the Quarrel Except a Noise about it.

That neither before he drew the Indictment, nor afterwards, he acquainted the Court that the Recognizances were wanting, that the Jury were Charg'd with Jane Loyd before the Justices knew that no Persons were bound to Prosecute : At the Tryal he call'd Margeret Higgins as a Prosecutor, and Frances Brown who gave no Information, because she was mention'd in the Examination of Mrs. Higgins.

At the Instance of the Lord Chief Baron the two Session Books, one kept by the Judge who Presides, the other by the Clerk of the Peace, were Produc'd, and Margeret Higgins and Frances Brown were Enter'd as Prosecutors in both ; tho' such Entries are never made, when no Recognizances are return'd.

These Contradictions appear'd very Surprizing to all who heard them, until a Discovery was made by The Arch-Bishop of Tuam, that Mr. Stenhouse was well rewarded for his Zeal and Diligence in this Cause : He confess'd with great Unwillingness that he had receiv'd Money from the Justices, and he could not recollect the particular Sum ; That Lord Santry gave him half a Guinea, most of

of the Justices a *Crown* each, that it was very *usual* for the Justices of Peace to give such Rewards to the Clerk for his Care in the Business of the Sessions, yet he own'd that he had *never* receiv'd any Gratuity before.

Mr. *Aston* alledg'd, that the Money was given to Mr. *Stenhouse* for his Trouble in Printing the Presentment, tho' others are of Opinion that he was rewarded for greater Services, and that *forty Crowns* are high Payment to be given by him to a Printer, who afterwards bought of him the Copy of so extraordinary a Paper.

Tho' it be highly probable by the Evidence already mention'd, that Mr. *Stenhouse* wilfully stiff'd the Recognizances, yet it was afterwards fully prov'd by Mr. *Grace* and others in the progress of the Tryal, that he had been Guilty of the same Practices in other Cases.

This second Hearing was concluded with some Remarks made by the *Lord Chief-Justice of the Queen's-Bench* on the foregoing Particulars, that the Clerk of the Peace is a Gainer by suppressing Recognizances, and therefore may be tempted to destroy them; that when Mr. *Higgins* directed Mr. *Hall* to give *Jane Loyd* a *Crown* and send her away, he then only knew of a few Napkins being stol'n; that her Crime was a breach of *Trust*, and might be Compounded, but when a greater Quantity of Linnen was found in the Hands of several Persons, *Loyd* was sent to the County Goal, and Mr. *Higgins*, who had an *Action of Trowver* against the Receivers of the Goods, might lawfully release them from that Action, and Compound for his Losses.

The *Third* Particular objected to Mr. *Higgins* was Oppression, Nov. 2. 1711. in exacting a Penalty of Half a *Crown* for the loss of a Furze-Bush, and the Witnesses in this Point were Mr. *Hall* and *Thomas Allen*.

Mr. *Hall* Swore, That he found *Thomas Field* cutting two Sheaves of Furze on the Double-Ditch of Mr. *Higgins's* Garden-Fence; that Mr. *Higgins* by a Warrant from a Neighbouring Justice, caus'd *Field* to be Apprehended; that *Field* consented to pay Half-a-Crown for the Trespass; he told Mr. *Higgins* that he had Six-pence of it in his Hands, and the Constable was bound for payment of the remainder; that such Trespasses have been often committed, and Mr. *Higgins's* Gardens considerably Damag'd.

Thomas Allen's Deposition was to the same Effect.

The Council for Mr. *Higgins* observ'd, that the Oath of *Field* the Criminal, was the only Foundation of this Charge; that Mr. *Higgins* was so cautious in this small Instance, because it was his own Case, as to apprehend *Field* by a Warrant from Mr. *Smuth*; that Mr. *Higgins's* Garden had been often Rob'd; that the Half-Crown which yet was *never paid*, was a Reasonable Composition for the Trespass, and impos'd on *Field* to deter the People of the Village from such Practices for the future.

Then they proceeded to call other Witnesses in behalf of their Client, particularly to the Charge of Insulting Lord *Santry*, and other Gentlemen of *Quality and Fortune*, at the last Sessions.

James Grace Esq; Swore, That to the best of his Knowledge, Mr. *Higgins* sat Cover'd when Lord *Santry* came into the Dining-Room, and there is seldom any Ceremony us'd among the Justices of the Peace; that he did not observe the least ill Behaviour in Mr. *Higgins*, or even *Tendency to a Dis-respect* towards Lord *Santry*, or any Gentleman present; that the Tack of the Revolution to the Memory of King *William* was not offensive to any of the Company. To another Health began by my Lord *Santry*, That the Laws may be the measure of our Obedience, Mr. *Higgins*, added, *Where we can't Obey, may we patiently Suffer*. His Lordship was offended at this Addition, told Mr. *Higgins* he was an *Impudent Fellow*, and came there to Bully the County. Mr. *Higgins* reply'd, Your Lordship was born a Peer, but as I am a Justice of Peace, I am so far on the Level with you; and he gave no other Provocation for the *Unseemly Treatment* he met with. Mr. *Upton* and Mr. *Francis Harrison* were also Passionate and Angry, and he endeavour'd to pacify them in vain. Mr. *Higgins* did not by his Behaviour *Deserve* their Anger; and if Lord *Santry* had pass'd by that Amendment of the Health, he believ'd that no other Person wou'd have taken notice of it.

That

That on the second day of the Sessions he observ'd several of the Justices frequently to come in and go out of the Court, which gave him reason to suspect that some secret Design was in Agitation; that they were concerting some Counter-Address, which until they had prepar'd, they wou'd conceal from him, because the same Justices had the Sessions before rejected an Address barely of Compliment to the Lord Lieutenant, which was propos'd to them.

That soon after the Grand-Jury brought in the Presentment, a Motion was made to allow it, and he gave his Reasons to the contrary; that the Presentment was *Illegal and without Precedent, it was Inhumane, and an Unchristian way of treating a Clergy-man*; that if Mr. Higgins was unacceptable to the County, 'twas indifferent to him whether he continu'd in the Commission of the Peace or not; if Lord Santry had been Affronted, there were other Methods of obtaining Satisfaction besides a Presentment, and he own'd, that tho' no *just Cause of Offence* had been given by Mr. Higgins, yet he blam'd him only with an intent to moderate his Lordship's *Passion*; and the only Reply made to what he spoke against the Presentment, was by Collonel Dean and others, *Put it to the Vote*.

That he believ'd the Presentment was not drawn by any of the Jury; it was commonly reported, that it was *Clubb'd* by the Justices at the *Rose Tavern*, and if he had been *for their Turn*, they would probably have consulted him, being the Eldest Justice of the County, and having been above *Thirty Years* in the Commission of the Peace.

That the Presentment was *carry'd on by very foul Play*, because Mr. Kennan and Mr. Tutbill, Members of the Grand-Jury, told him, That the Presentment ready drawn was brought to them by two or three of the Justices, and they had neither Examinations nor Personal Knowledge of the Facts they Presented; That he ask'd them, *If they were all Mad rashly to joyn in so irregular a Thing?* They answer'd, *That the Presentment was impos'd upon them, they were born down by the Justices, who neither suffer'd them to speak, nor consider what they were doing.*

That Mr. Stenhouse is look'd upon to be a knowing Clerk, yet at several times he deliver'd Examinations and Recognizances to him, which never afterwards appear'd, and he had often blam'd him for mislaying Papers or suppressing them. Being ask'd by Mr. Aston, what his Opinion of Stenhouse was, he answer'd, That he formerly thought him to be an Honest Man, but *by Virtue of his Oath he had different Thoughts of him now.*

Being *Cross* examin'd, whether he had not Censur'd the Behaviour of Mr. Higgins, in discoursing with Mr. Allen; He said, the purport of his Words was, that if Mr. Higgins had Affronted and Revil'd Lord Santry, yet his Lordship carry'd his *Resentment too far*, and should rather have observ'd our Saviour's Rule, in not Reviling him again. His Intent was to try all Methods of Healing the Difference, and he believ'd that he could have even prevail'd with Mr. Higgins to have ask'd his Lordship's Pardon, if the Presentment had not heigh-ten'd the Quarrel.

This Evidence was concluded with a Question propos'd by the *Lord Chief Baron*, What are the usual Methods of Proceeding in Trials? He answer'd, That the Clerk of the Peace, to whom all Recognizances are deliver'd, calls the Prosecutors in Court; when they don't appear, the Examinations are view'd, and Enquiry is made, whether the Persons bound to Prosecute are ready, if they are not prepar'd, the Trial is delay'd for a Day or two; if the Accusation be very Criminal, the Prisoners are confin'd until the next Sessions, but if they are Charg'd with a slender Crime, they are deliver'd upon Bail.

I had almost forgotten a *shrew'd* Question of Mr. Aston's? Whether Mr. Higgins be a Person *acceptable* to the Justices of the County? Mr. Grace paus'd a while, seem'd doubtful whether the Question deserv'd, or the Gentleman who propos'd it expected an Answer, but when Mr. Aston waited for a Reply, he said, That Mr. Higgins was not, as he imagin'd, very *agreeable* to those Justices who first drew, and afterwards *rul'd* the Presentment.

A Motion was then made by the *Lord Chief Justice* of the *Queen's-Bench*, that Mr. Higgin's voluntary Oath should be taken, as the shortest and most effectual Way to Determine the Return of the Recognizances:

Mr.

Mr. *Higgins* readily agreed to the Motion, but the *Lord Chancellor* was unwilling that the Oath should be administered without the Consent of the Prosecutor, and the Petitioner's Council would not allow him to be Sworn because it was in his own Case.

Then the *Lord Chancellor* observ'd, that the Oath of Mr. *Higgins* cou'd not justly be refus'd, because this Affair does not admit of any other Evidence, and the Doubt cannot entirely be remov'd by any other way, that Mr. *Wybrants* and Mr. *Stenhouse* were Witnesses in their own Cause, Mr. *Wybrants* neglected his Duty in not returning the Recognizances to the Clerk of the Peace, and Mr. *Stenhouse* Acted contrary to his Office, in drawing the Indictment before he acquainted the Court that the Recognizances were wanting, that neither of them cou'd ever Excuse their own *Misdemeanours*, but by accusing Mr. *Higgins*, and therefore it was reasonable to Admit him to the same Benefit of Purg- ing himself by Oath.

Lord Anglesey observ'd that Mr. *Wybrants* and Mr. *Stenhouse* were allow'd to clear themselves, by Transferring their Guilt on Mr. *Higgins*, tho' the Question of the return of the Recognizances was render'd more Intricate by their Evidence; for Mr. *Wybrants* Swore, that he had taken three Examinations particularly of Mr. *Hall*, when Mr. *Hall* Swore that he gave none, and that the only Person Examin'd was Mrs. *Margaret Higgins*; He likewise Swore That he gave the Recognizances to Mrs. *Higgins*, to return them to her Brother, and she swore that he deliver'd them to Mr. *Hall*.

That the Testimony of Mr. *Stenhouse* was uncertain and contradictory; He first Swore that he search'd his Pockets for the Papers the Night after he receiv'd them from Mr. *Higgins*; and again, that he did not Examine them until the next Morning; that he drew the Indictment the Day after the Quarrel at *Kilmainham*; and he, tho' Clerk of the Peace, heard nothing of the Quarrel, except a Noise about it.

His Lordship further urg'd, that it wou'd be for the Interest of the Complainants against Mr. *Higgins*, to consent to his Oath, for if he be that vile Person they have represented him, if he be a sower of Sedition, and a Common disturber of the Publick Peace; if he be guilty of so many and such Immoral Practices, neither the Council, nor any other Person, will regard his Oath.

But if Mr. *Higgins* be a Clergyman who has always acted agreeably to the Dignity of his Sacred Function, if he has discharg'd every Office with Courage and Integrity; if * he has Fed the Fatherless, and Cloath'd the Widow and the Stranger, his Prosecutors, who have taken such Unfair Methods to Blacken him, who have Consulted together in Secret, and taken Evidence over a Bottle against him, may justly fear the Consequence of his Acquittal, and therefore no doubt on't, will deny him every opportunity of Clearing himself.

Many weighty Arguments were us'd by my Lord Chief Baron, Lord Chief-Justice, and his own Council, to shew the Reasonableness, nay, Necessity of admitting Mr. *Higgins's*, or any Justice's Oath, upon this or the like Occasion. However, Mr. *Gore* and Mr. *Aston* not giving in to it, the Lords of the Council did not think fit to comply with my Lord-Chief-Justice's Motion; but after a long Interruption, Mr. *Cock* and Mr. Serjeant *Saunders* were Call'd.

Mr. *Cock* Swore, That he sat near to Mr. *Higgins* at the Entertainment at *Kilmainham*, and he did not observe any Affront given by him to Lord Santry, or any Gentleman present, and to the best of his Knowledge, Mr. *Higgins* was Uncover'd when Lord Santry came into the Room.

After Dinner, Lord Santry began To the Glorious Memory of King William; Mr. *Higgins* softly said, that Health was not well Worded: One of the Company drank it in this manner, To those who lov'd King William when Alive, and do now

* Note, That as the first part of what my Lord *Anglesey* says here alludes to the many scandalous Aspersions thrown on Mr. *Higgins* in their Printed Papers, so does the latter to the Evidence given by his Neighbours, who in downright Contradiction to those Insinuations, Extoll'd him for his Piety and Goodness, and more especially for his being a Father to the Poor; but that part of the Evidence was purposely omitted, there being nothing wanting to confirm Mr. *Higgins's* Character after the unanimous Testimony of the Lower House of Convocation.

honour his Memory. Mr. Higgins said, *Well Explain'd*; and in his turn added, *Are thankful for the late happy Revolution.*

Then Lord Santry began another Health, *That the Laws of the Land may be the Measure of our Obedience.* Mr. Higgins added, *Without Rebellion, and where we can't obey the Laws, may we patiently suffer.* Lord Santry was uneasy at this Amendment and Angrily said, *Sir, may you suffer, Sir.* To which Mr. Higgins calmly reply'd, *Every Man in his turn.*

Then Lord Santry cry'd *Buff*, Here's a Health to Lord *Wha— Or— I mean Ormond.* Mr. Joshua Allen turning to Mr. Higgins, said, It was well his Lordship went no farther. And Mr. Higgins answer'd in a low Voice, *It was almost out.*

That M. Higgins was Chearful the whole Day, and happening to Laugh at some Private Discourse with those who sat near him, Lord Santry grew very Passionate, call'd him an *Impudent Fellow* for Laughing at him; He knock'd his *Hand on the Table*, and said he wou'd *serve no longer*, if Mr. Higgins was not turn'd out of the Commission of the Peace.

That Mr. Higgins assur'd his Lordship he Laugh'd at some Private Discourse with Mr. Allen, to whom he appeal'd on that account; Mr. Allen rose up, and laying his Hands a-crofs his Breast, Affirm'd upon his Honour, that Mr. Higgins did not Laugh at his Lordship, but at somewhat he said to him; and he, viz: this Deponant, afterwards thank'd Mr. Allen for doing Justice to Mr. Higgins.

That Lord Santry grew still Warmer, gave very ill Language to Mr. Higgins: He was treated by Col. Dean, Mr. Stepney, and others in the same manner, and the only Reply made by Mr. Higgins was, *I cou'd Answer every one of you, but the more I speak, the more Noise is made, and the greater Tumult is rais'd.*

That after the Heat of the Dispute was over, he took Mr. Higgins by the Hand, telling him if the *Greatest Enemies he had in the World were present, they could not find fault with any thing he had said*; to which he reply'd, *I think they cou'd not,*

*Unless they set their Teeth together,
As Coblers do, to Stretch their Leather.*

The Lord Lieutenant ask'd him what other Healths were at that time drank by Lord Santry, he Answer'd *Lord Wharton, the Loyal City of Dublin, Piety and Good manners to the Clergy*: Being ask'd by Mr. Gore what Discourse he had with the late Sergeant Neave some Days after the Sessions concerning the Behaviour of Mr. Higgins, he said he told him the following Passage: Mr. Higgins call'd to him to observe how Lord Santry went round the Room Whispering the several Gentlemen present, and at the same time pointing at him, and he said that he would put on his Hat, to shew that he was not afraid of his Lordship, and I reply'd, you ought by wearing your Hat to Distinguish yourself from me, who am not in the Commission of the Peace.

'Tis unnecessary to give you a fuller Account of Mr. Cock's Evidence; he Confirm'd each particular of the Case Printed by Mr. Higgins, to which I must refer you, he mention'd at large the several Speeches of Mr. Upton, Mr. Rowley, and Lord Santry, without forgetting the Repeated *Sirs*, those Useful Expletives, and Choice Ornaments of his Lordship's Discourse.

Sergeant Saunders Swore, that Mr. Higgins came with him and the other Justices into the Dining-Room, soon after Lord Santry came in, and he observ'd no Indecent Behaviour in Mr. Higgins upon his Lordship's coming in, and Mr. Higgins sat at the lower end of the Table to avoid, as he believ'd, the giving any Offence to those Gentlemen who, as he had heard, were formerly displeas'd with him.

That Lord Santry drank to the Memory of King William, Mr. Higgins added, to those who are Thankful for the late Revolution, which he thought was a good Addition, and would have been Agreeable to all the Company: Lord Santry was Immediately in a Heat, Mr. Dean, Mr. Rowley, and Mr. Tigh, were also Angry; a Dispute arose, Mr. Higgins did not continue it after he desir'd him to Acquiesce, and he endeavour'd to pacify the other Gentlemen.

That

That he heard a Gentleman on his Right Hand call to Lord Santry to *Choak him with Healths*, with an intent as he suppos'd, to Name some Healths which were Unacceptable to Mr. *Higgins*; and he did not remember the Healths which were afterwards drank. That he observ'd a Laugh at the lower end of the Table, but knew not the Occasion of it; and when Lord Santry charg'd Mr. *Higgins* with Laughing at him, he heard Mr. *Allen* Publickly declare that Mr. *Higgins* Laugh'd at some Private Discourse with him.

That he cou'd not remember the exact Expressions us'd by the Parties Concerned in the Quarrel; that Mr. *Higgins* said Lord Santry was Born a Peer, and he was a Clergy-man, and he thought that Mr. *Higgins* brought himself a little too much on the *Level* with his Lordship, and that the Comparifon was *Uncivil*.

That when the Presentment was brought in he Voted against allowing it, because he thought it to be *Unprecedented, and Illegal, and Founded on no Evidence*; and he told Lord Santry at the same time, that he would not altogether Excuse Mr. *Higgins*, that he disapprov'd this manner of Proceeding against him, and if another Method were resolv'd on, perhaps more would join with his Lordship in it.

That as to *Jane Loyd*, the Jury were charg'd with the Criminal before the Justices knew that no Recognizances were return'd: That in the *Session Book* which is always given to the *Ruler of the Bench*, by the Clerk of the Peace; Mrs. *Margeret Higgins* only was Enter'd in the place of the Person bound to Prosecute, tho' she had given no Recognizance, and that the value of the Stolen Goods in the Indictment, did not Amount to *Five Shillings*.

He added, that Mr. *Redding* told him at the last Sessions when a Prisoner was discharg'd by Proclamation for want of Evidence, that he had given Examinations and Recognizances against that Person to the Clerk of the Peace, who either Carelessly lost, or willfully suppress'd them.

Being ask'd by Lord *Anglesey* whether if their had been any Evidence to Found the Presentment upon, he would have known it? He Answer'd in the Affirmative, because the Witnesses would have been Sworn before him, and the usual Method in such Cases is to send a *Bayliff* with them, or the Clerk of the Peace by Note, Certifies to the Jury that they have been Sworn to give Evidence before them; and besides the Clerk, Enters in his Book, that such Oaths have been Administer'd in Court.

This Day's Hearing was Concluded with the Evidence of Mr. *Thomas Kirby*, and the Reverend Mr. *Twigge*.

Mr. *Kirby* Swore, that about Seven Months ago he was Employ'd by Mr. *Higgins* to buy him a Strong Gelding, having formerly Bought Horses from Lord Santry, and meeting his Lordship on the High-Road, he ask'd him whether he had any now to Dispose of, and Lord Santry reply'd, that he would not sell a Horse to such a *Papist Son of a Whore as Mr. Higgins was*, and charg'd him to tell Mr. *Higgins* what he had said of him, which he accordingly did, and he was doubtful in no part of his Evidence; but whether Lord Santry call'd him a *Son of a Whore or Son of a Bitch*.

Mr. *Gore* Alledg'd, that this Testimony was Foreign to the Tryal, but the Lord Chancellor observ'd that it was not Improper, and that Mr. *Higgins* cou'd not be deny'd the liberty of proving *Malice in the Prosecutor*.

Mr. *Twigge* Swore, that at the Sessions at *Kilmainham* soon after the Removal of Lord *Sunderland*, Lord Santry drank Confusion to all those who wish a further Alteration in the Ministry; and *Gregg's Fate*, to Dr. *Sacheverell's Friends*.

That on his refusal to Pledge these Healths, Lord Santry *Angrily* told him, if there were no Devil Sir, their would be no Use of you; to which he reply'd, if there were no Wicked Men, there would be no Use of the Devil.

The Petitioner's Counsel Interrupted Mr. *Twigge* in his Evidence, and a Discovery was prevented of many other Unchristian Healths which these Moderate and Godly Men do constantly Drink at their Publick Meetings: And these I Suppose were the *Choaking Healths* which the Lord Santry was call'd upon to propose at the last Sessions.

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The *Fourth Day* of the Tryal was Employ'd in hearing the remaining part of the Evidence; more Witnesses were Examin'd as to the Behaviour of Mr. *Higgins* at the Sessions; It was fully prov'd that the Clerk of the Peace had been Guilty of *Corrupt Practices* in other Cases; Three Members of the Grand-Jury gave Evidence of the Methods us'd in *Procuring* the Presentment: The Proceedings of the Justices at the *Rose-Tavern* more Evidently appear'd, and the *Petitioner's* Council again Attempted to prove, that *Persons in Office* refus'd to give Testimony against Mr. *Higgins*.

Counsellor *Jenkins* and *John Smith Esqrs*, were call'd to the Charge of Insulting Lord *Santry* and other Gentlemen of *Quality* at the last Sessions.

Mr. *Jenkins* Swore, that Lord *Santry* came into the Dining Room some time after the Company had been there, that he did not remember whether Mr. *Higgins* wore his Hat when his Lordship came in, and he observ'd nothing *Indecent* or *Contemptuous* in his Carriage towards Lord *Santry*, or any other Gentleman.

That the Amendment made by Mr. *Higgins* to the Health to the Memory of King *William* was well approv'd of, and was afterwards drunk in that manner by all the Company, especially at the Table where he Sat.

When to another Health that the Laws may be the Rule of our Obedience, Mr. *Higgins* added, where *we can't Obey, may we patiently suffer*; Lord *Santry* grew very *hot*, and *Angrily* told Mr. *Higgins*, that he was very *Troublesome*, never came there but to *Provoke* the Gentlemen of the County, that he was *once* turn'd out on Application of the Justices, and *should be so again, and should not serve there*.

That some other Gentlemen were Dissatisfied with the Alteration of the Health; nor did any Body till then Complain of his Behaviour.

That during the whole time he was in the Room, Mr. *Higgins* said nothing that cou'd *justly give Offence* to Lord *Santry*, or any of the Company; and to a Question propos'd by Mr. *Gore*, whether a Misbehaviour might have happen'd by *Mimical Gestures* or otherwise without his taking any Notice of it? He answer'd, that there might possibly have been *Gestures* which he did not see, but if Mr. *Higgins* had spoke any *Loud or Offensive Words*, he must have observed them.

Mr. *Smith* Swore, that at the last Sessions he Sat near Mr. *Higgins*, who *drank very little Wine*, because as he told him, he was *Indisposed*, yet he drank Lord *Santry's* Health.

That Mr. *Higgins* fill'd a *Large Glas*s to those who Honour the Memory of King *William*, and are Thankful for the late Revolution, and he, and others drank it so; Mr. *Higgins* also alter'd another Health, that the Laws may be the Measure of our Obedience, and he could not Positively Affirm, what the Amendment was.

That he Sat at a distance from Lord *Santry*, and cou'd not Distinctly observe what he said, his Lordship *Muttered some Dislike* of the Alteration of the Healths, and as near as he could remember, he told Mr. *Higgins* that he was *Troublesome* to the County, and *if it were not for his Gown, he would not bear with him*: To which Mr. *Higgins* reply'd, *Your Lordship was Born a Peer, and I am a Cleagy-man, so we are both safe*. Then Mr. *Higgins* turning to him, repeated a Disticks of Verses to this Effect,

Unless they *set their Teeth together,*
As Coblers do, to Stretch their Leather, &c.

And he did not think that those Lines were spoke with an Intent to Affront Lord *Santry*, or any Gentleman of the County.

That Mr. *Higgins* indeed Spoke *very Loudly and Roughly*, and not as he would speak himself to a Peer, but perhaps the Loudness of his Voice was the *Natural Manner* of his Speaking, and being ask'd by Mr. *Gore* whether he had not since the Sessions Blam'd the Behaviour of Mr. *Higgins*? He Answer'd, that all he said on that Occasion was, if he had known there would have been a Quarrel, he would not have gone to *Kilmainham*.

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Here his Grace of *Dublin* would fain have Understood Mr. *Smith* that he came to the Sessions in full expectation of a Disturbance from the Mutinous and Troublesome Temper of Mr. *Higgins*, tho' neither his Words in this or any other Part of his Evidence could give him the least Countenance for such a Construction.

He added, that he knew nothing ill of Mr. *Stenhouse*, except his drawing an Indictment against a Person when the Recognizances were *releas'd*, tho' he afterwards took no Fees from the Parties when he found his Mistake.

Mr. *Smith* is an Experienc'd Attorney in the *Queen's Bench*, and he was further Examin'd as to the Methods of Proceeding in Tryals; To several Questions Propos'd to him. He Answer'd,

That it is the Duty of the Clerk of the Peace to *Inform the Court* when no Recognizances are return'd, before the Person is put on his Tryal, and tho' the Justices come to *Deliver the Goal*, it is usual to delay the Tryal, if no Recognizances appear: That in the Book given to the Court by the Clerk of the Peace, containing a List of the Criminals that are on the *Calendar*, the Names of the Prosecutors are always Enter'd, and he did not know whether it be Customary to Mention the Recognizances also.

That in the *Queen's Bench* the Clerk of the Crown has a *Seperate Book*, and he believ'd that the same Method is observ'd at the Sessions: That Justices never take *Receipts from the Clerk of the Peace*, of the return of Examinations, nor bring *Witnesses* to prove the *Delivery* of them.

The next Witnesses for Mr. *Higgins* were *Theophilus Arnold*, and Col. *Bellew*, who gave Evidence of Mr. *Stenhouse's* Misbehaviour in other Cases.

Arnold Swore, that Mr. *Stenhouse* Issued a *Capias* against him for not *Watching* in his turn, tho' he was Exempted from that Service, because he was an *Inmate*, and from a Prosecution at the Sessions, because he liv'd in the Liberty of *St. Sepulchres*, and he oblig'd him to Pay Six Shillings and eight Pence for the *Capias*.

That for this Pretended Offence, he Indicted him Joyn'tly with two other Persons, The *Bill* against him was found *Ignoramus*; that he Tax'd Mr. *Stenhouse* at the Sessions with this Irregular Proceeding, who told him it was done by mistake, he shou'd meet with no further Trouble, and there was no Occasion for his Appearance in Court, and when by that Stratagem he sent him Home, the same Afternoon he Procur'd a new Indictment against him.

The Lord Chancellor Objected to the hearing of this Testimony, because if it were receiv'd, Mr. *Stenhouse* must have the Liberty of Clearing himself.

Lord *Anglesey* was of a Different Opinion, and observ'd, that the Evidence was not Improper, because the Main Stress of the Charge against Mr. *Higgins* for stifling the Recognizances, lay on the Character of Mr. *Stenhouse*, and if it could be prov'd that he had at other times done *Negligent or Corrupt Things* in his Office, the Presumption would be Strong that he had been faulty in this Case.

Col. *Bellew* Swore, that about two Years ago he Deliver'd Examinations and Recognizances to the Clerk of the Peace, against *Thomas Fulham*, and *Patrick Mulligan*, for Stealing a Cow at *Leixlip*. When the Persons were put on their Tryal, the Clerk told him that the Recognizances were Mislaide, that he believ'd there was *Foul Play on Stenhouse's Part*, and by his Corruption, two Notorious Rogues Escap'd the Gallows.

Then Mr. *Higgins's* Council Proceeded to shew the Irregular Methods us'd in Procuring the Presentment, and the Witnesses to this Point were *Roger Tuthill*, *Henry Clayton*, and *Francis Grovesnor*, Members of the Grand-Jury.

Mr. *Tuthill* Swore, that the first Day of the Sessions Lord Santry came after Dinner to the Jury, told them that Mr. *Higgins* had Affronted him, and desir'd Col. *Allen* 'the Foreman' to go with him to the Lord Chancellor to get him turn'd out of the Commission of the Peace.

That the next Day a Great Body of the Justices came into the Room where the Grand-Jury Sat, assur'd them that Mr. *Higgins* had Insulted Lord Santry and the Bench, and hop'd they would find a Presentment against him, which would be a Publick Service to the County.

The Justices who came into the Room were Coll. *Dean*, Mr. *Rowley*, Mr. *Blackball*, Mr. *Tigh*, and he was doubtful whether Mr. *Chaigneau*, and Mr. *Joshua Allen* were among them.

That he believ'd the Presentment ready drawn was brought in by the Justices, because he never saw it before their coming in, tho' it might possibly have been drawn in the Jury Room, when he went out of it for a short time.

That Presentments are generally drawn in the Grand-Jury Room by one of the Jurors, he knew not the Hand in which the Presentment of Mr. *Higgins* was Written, he was almost sure that it was not founded on any Examinations upon Oath, but on the Verbal Testimony of the Justices, who *very Fervently* desir'd them to find it.

That when the Justices were withdrawn, the *Foreman* read the Presentment, Immediately a Messenger, whom he did not Remember, came to the Jury as from the *Bench*, and Press'd them to *hasten* the Presentment, because the *Court* waited for it, and desir'd them to Sign it *severally*, and not as is Usually done, the *Foreman* only *Cum Socijs*.

That twelve or fourteen of the Jury *readily* agreed to the Presentment, and the rest complied in a short time; the Presentment was brought to the *Court*, and Lord Santry *Thank'd* the Jury for finding it.

To a Question Propos'd by Mr. *Gore*, whether he heard Mr. *Grace* Publickly Declare in *Court* that he did not approve the Behaviour of Mr. *Higgins*? He Answer'd, that Mr. *Grace* said he was Sorry Lord Santry and Mr. *Higgins* had a Quarrel, that the Presentment was Illegal, and this Contest might have been better Determin'd in another manner.

Mr. *Aston* Endeavour'd to Vindicate the Conduct of the Justices in this Affair, whereupon the Lord Lieutenant ask'd him whether the Presentment was *Legal*? He replied, that it was not according to the *Forms of Law*, and it would have been *Quash'd on the Traverse*, and tho' his Grace desired him to *Answer Directly*, and to *Speak English*; He still Evaded the Question and Repeated the same Words, yet he afterwards Ingeniously Confess'd, in Answer to a Question of the Lord Chief Baron's, that he had not in *all his Reading* met with an Instance of such a Presentment.

Henry Clayton Swore, that Lord Santry, Col. *Dean*, Mr. *Blackball*, Mr. *Tigh*, and several other Justices came into the Jury Room, and desir'd them to *find a Bill* for Lord Santry against Mr. *Higgins*, that he Sat at the Lower End of a long Table; and he could not Distinctly hear all they said.

That no Presentment was *Going on* against Mr. *Higgins* before Lord Santry and the Justices came into the Room; and the Foreman had a Writing in his Hand, which he Suppos'd was the Presentment.

The next Witness to this Point was *Francis Grovesnor*.

He Swore, that Mr. *Joshua Allen*, Mr. *Hill*, Mr. *Chaigneau*, Coll. *Dean*, and most of the *Bench*, came into the Jury-Room, that he believ'd they brought a Presentment with them, for he saw it on the Table with other Papers, and he knew not from what particular Person it came.

That the Justices said, they *came about a Presentment*, they *Ask'd* a Presentment, and at length he own'd they desir'd the Jury to Present Mr. *Higgins*, because he had abus'd Lord Santry and the Gentlemen of the Connty; and they us'd no other Argument to Influence them to Comply with their Request. That a Member of the Grand-Jury drew all the other Presentments, *Except* this against Mr. *Higgins*, and he heard nothing of the Quarrel among the Justices *Untill* he saw the Presentment.

That he took the Presentment brought in by the Justices to be an Examination, and he knew nothing more extraordinary in this, than in other Presentments.

The Earl of *Anglesey* ask'd him whether he joyn'd in this Presentment? He Answer'd, that he *agreed* with the rest of the Jury to find it, and *that there were not many Words made about it*.

The *Arch-Bishop of Dublin* said, There was nothing more usual than for Justices of the Peace to go into the Grand-Jury Room and desire Presentments for *Nuisances* and *High-ways*.

The *Chancellor of the Exchequer* observ'd, That the Jury ought to have *Personal Knowledge* of such Things before they Present them, and if the Practice were otherwise at *Kilmainham*, or other Places, the reason of it was, because they have not leisure at the *Sessions* to view the distant Roads of a County; and besides, there is some difference between Presenting a Justice of Peace for a Misdemeanour, and a broken *Causeway* in a High-way.

When Mr. *Grovesnor* was first Call'd, the *Lord-Chief-Justice of the Queen's-Bench* said, It was necessary to inform him how far his Oath oblig'd him to Secrecy, because Mr. *Clayton* was Shy in his Evidence on that score: His Lordship said, That the *Jurors* are bound by Oath to conceal the *Queen's Secrets*, *their own*, and *their Fellows*, that the Party Accus'd, may receive no Benefit by their Information; but when the *Jury is over*, and the *Pannel broken*, they are at liberty to discover what has pass'd in the *Jury-Room*, especially if they are Summon'd to Declare it in Court.

Notwithstanding this Declaration of the Law, *Grovesnor* was at first doubtful what he might Reveal, or whether he shou'd speak at all; his Evidence was in some measure extorted from him.

The next Step was to shew the indirect Methods used by the Prosecutors in procuring Evidence against Mr. *Higgins*, their Consultations at the *Rose Tavern*, and their Tampering with Witnesses, were fully laid open by Mr. *Thomas Baker*, Mr. *George Higgins*, and the Reverend Mr. *Hall*.

Mr. *Baker* Swore, that he was sent for to *Dublin* on some particular Business, before he came there Post came; he heard nothing of a Quarrel between Lord Santry, and Mr. *Higgins*, and at his first coming he heard only a *Flying Report* of a Presentment.

That he was Summon'd by Lord Santry to attend the Council, in this Tryal, and no Person Discours'd with him, or directed him to give any Evidence before he was Cited; yet he afterwards own'd, That before he was Summon'd, Mr. *Molesworth* ask'd him at the *Parliament House*, whether he could prove that Mr. *Higgins* had any Unlawful Intimacy with Mrs. *Thornton*, his Clerk's Wife?

That he went to the *Rose-Tavern* to Discourse with Lord Santry, and there made an Affidavit before Mr. *Boate* a Master of Chancery, That Mrs. *Thornton* formerly told him, that Mr. *Higgins* had attempted to Debauch her.

That Mr. *Swan*, Mr. *Bolton*, Mr. *Carter*, and Mr. *Rowley*, and my Lord Santry's Attorneys, *Martin* and *Caldwell*, were at that time in the Tavern with his Lordship; and tho' he was frequently desir'd by the *Earl of Anglesey* and others, to name the rest of the Company; tho' he was particularly ask'd whether any Members of the House of Lords and Commons were there? He still Answer'd, that there were above ten Justices, and he did not know them all, and he wou'd not remember Mr. *Molesworth* his own Landlord, or Mr. *Forster*, Speaker of the House of Commons, who, as appears by the following Evidence were both Present.

Being desired to recollect the Discourse he had with Mr. *George Higgins*, and Mr. *Hall*, he said, they came to his House, and he told them there, that Lord Santry had by a Summons forc'd him to come to *Dublin*, where he made Oath of what he some Years ago heard Mrs. *Thornton* say, and to the best of his knowledge he had this Discourse with these Gentlemen after he was Summon'd.

The *Arch-Bishop of Dublin* upon this Occasion discover'd his Charitable Inclinations, and his Paternal Care of the Reputation of his Clergy, by Two of the most Remarkable Questions which perhaps were ever propos'd in a Court of Justice.

The First was, Whether Mr. *Baker* had any Intimation from Lord Santry to swear falsely in this Case? He readily Answer'd, that he had receiv'd no such Directions from his Lordship; and he must surely be a simple Witness who will discover his Instructions, and confess his Perjury at the very Instant of giving his Evidence: However his Grace was pleas'd with the Answer, and repeated it publicly, that it might be the more observ'd.

The other Question was, Whether Mr. *Baker* believ'd in his Conscience that what Mrs. *Thornton* formerly told him was true? The *Earl of Anglesey* immediately desir'd the Company might be order'd to withdraw before the Witness should be suffer'd to Answer it; and his Lordship with Surprise and Earnestness said, He never heard so strange a Question in his Life. Tho' the Company were much

more

more surpriz'd at the Effect of this Reprimand, to observe his *Grace* to look down in Confusion, and insist no further on his Question.

Mr. *George Higgins* and Mr. *Hall* were call'd upon to confront *Baker's* Evidence, and to relate the Conversation they had with him.

Mr. *Higgins* Swore, That on the 14th of last *October* he went with Mr. *Hall* to visit Mr. *Baker* at his House near *Balruddery*; he there told Mr. *Baker* he was Inform'd that he was to be an Evidence against his Brother. Mr. *Baker* reply'd, That he design'd no Prejudice to his Brother, and he wou'd fully acquaint him how far he was concern'd against him, and then gave him the following Account at large.

That a few Days before he receiv'd a Letter from Mr. *Adare*, Agent for Mr. *Molesworth*, and Brother-in-Law to Mr. *Forster*, desiring him to come immediately to *Dublin* on some important Business of his own; that if he delay'd coming, he wou'd be a considerable Loser, because Mr. *Molesworth* design'd to go suddenly to *England*, That he came streight to *Dublin*, hoping Mr. *Molesworth* wou'd perfect a Lease which he had promis'd him; That Mr. *Molesworth* at the Door of the House of Commons taking him by the Hand told him, he was very glad to see him, and said, Do you not know a great many ill things Mr. *Higgins* has been guilty of? To which he Answer'd, *I vow to God, not I*, for that Mr. *Higgins* was a very honest Gentleman; he had liv'd in his Parish many Years, and he knew no ill of him.

Mr. *Molesworth* reply'd, that he shou'd be forc'd to discover upon Oath, all he knew against Mr. *Higgins*, and appointed him to meet that Evening at the *Rose-Tavern*. He came, and was carry'd into a Room where a great many Gentlemen were, and among them the following Persons, Lord Santry, Mr. *Whitshed*, Mr. *Forster*, and Mr. *Molesworth*.

Mr. *Forster* was the first who spoke to him, and at the same time Lord Santry walk'd to one side of the Room. Mr. *Forster* said, *They had sent for him on purpose to be a Witness against Mr. Higgins, a Man who had Abus'd his Father and him; That he was well assur'd, he cou'd be a material Evidence against Mr. Higgins, who was running down the County, and they were now forc'd to use all Means possible to Handle him.* To which *Baker* reply'd, He had nothing to say of Mr. *Higgins* but what was Fair and Honest. Do you not know, said Mr. *Forster*, that Mr. *Higgins* endeavour'd to Debauch his Clerk's Wife? Upon which he paus'd a while, said he had formerly hear'd such a Passage, and to avoid further Trouble in coming to *Dublin*, he made an Affidavit of it.

Mr. *Higgins* added, That Mr. *Baker* further said, *If he had his Lease from Mr. Molesworth, or his Hundred Pounds, he did not care if the Devil had them all.*

Mr. *Hall* confirm'd the Testimony of Mr. *George Higgins*; he was positive *Baker* told him, that Mr. *Molesworth* and Mr. *Forster* were at the Tavern when he made his Affidavit, and that the purport of Mr. *Adare's* Letter, was to hasten him to come to *Dublin* to perfect his Lease with Mr. *Molesworth*.

But the Methods made use of to procure Witnesses will more Ap. 11, and 12. evidently appear from the voluntary Affidavits of *Elizabeth Farrel*, and Mrs. *Thornton*, the *Pye-maker*, which to gratify your Curiosity, I have incerted in the *Appendix*.

I cannot help thinking the Behaviour of *Baker* towards Mr. *Forster* and Mr. *Molesworth* Unaccountable, in being asham'd to tell what they were not asham'd to Act; and in attempting by stifling his Evidence, to seclude them (in case their Endeavours had succeeded) from a just share of the Triumph.

His Scruples must arise from an Opinion they had done Wrong: And was not this suspecting their Discretion, and setting up his own Vulgar Understanding against their Superlative Knowledge, their inexhaustible Fund of Sense? Which I shall affirm to be not only equal to the best, but beyond what this Age has produc'd: And for the truth of my Assertion, dare appeal notwithstanding their profound Modesty, even to their own Judgments.

Besides, tho' Mr. *Molesworth* might play a little too much of the Busy-body in this Affair, tho' he might seem to act both as Judge and Party, 'tis manifest he has done nothing unbecoming a Privy-Counsellor, for he is one still. Wherefore if he has not already perfected the Lease to *Baker*, and would be advised by me, I am sure after such Usage he never should.

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The Evidence for Mr. *Higgins* being ended, Mr. *Aston* beg'd leave to produce other Witnesses, to prove, that *Persons in Office* refus'd to give Evidence against Mr. *Higgins*.

And Mr. *Gore* observ'd, that the Suggestion in the Petition was not Intended to reflect on the Justice of their Lordship's, that by *Persons in Office* were not meant those who hold Offices under the Crown, but People in *other Employments*.

The Witnesses brought to Support this Point were *John Sale*, *Samuel Hill*, and *Thomas Carter Esqrs*.

Mr. *Sale* Swore, that he desir'd the Persons who Summon'd him to Excuse him, because there was a difference between the Arch-Bishop of *Dublin* and Mr. *Higgins*, and being his Grace's *Register*, he was therefore unwilling to appear.

To several Questions propos'd to him, he Answer'd, that he held no Employment under the Crown, he was *Actuary* to the Lower-House of *Convocation*, that no Member of that House, neither Mr. *Higgins*, nor any Person from him, desir'd him not to appear; and that he was not *Apprehensive of Displeasing the Arch-Bishop of Dublin*, by giving Evidence against Mr. *Higgins*.

The Earl of *Albercorn* observ'd, that the Words of the Petition are, that *Material Witnesses in Office* refus'd to appear, and his Lordship desir'd to know how Mr. *Sale* was a *Material Witness*.

Sale was then Examined by the Petitioner's Council to other Points: He said, that at a Session Seven Years ago, there was a Quarrel between Mr. *Higgins* and some of the Company, Mr. *Higgins* call'd Col. *Forster* an *Old Buck*, and it was the Opinion of Gentlemen, that Mr. *Higgins* was *Troublesome*, he did not remember that Col. *Forster* then Affirm'd the Crown of *England* was *Elective*, and that the Col. was much for the Monarchy when he talk'd to him of the *Old Times*, neither did he remember that *Confusion* to those who with a farther Alteration in the Ministry, was Drank at the Sessions held soon after the Removal of *Lord Sunderland*.

He was further Examined by the *Solicitor-General* to the Charge on his Client of formerly drinking *Confusion to all Dissenters*: And he affirm'd that he was then *High-Sheriff*, he did not remember that Mr. *Higgins* Propos'd that Health, and if he had drank it, *he must have taken Notice of so remarkable a thing*.

Mr. *Hill* Swore, that Councillor *Parnel Seneschal* to the Liberty of *St. Sepulchres* told him he was unwilling to appear as a Witness against Mr. *Higgins*, and thereby bring the Clergy on his Back, and lose 200 a Year, which he got by holding Courts under the Church, and that the Arch-Bishop of *Dublin* Charg'd him not to appear in this Tryal, because there was a difference between his Grace and Mr. *Higgins*.

That Mr. *Higgins* on Occasion of some Healths spoke Disrespectfully to Lord *Santry*, that he said, *your Lordship was Born a Clergy-man, and I was Born a Peer*, this Occasion'd a Loud Laughter, and being desired to repeat it again, he said, Mr. *Higgins* told Lord *Santry* that *his Lordship was born a Peer, and he was born a Clergy-man*. And being a Third time desir'd to mention the *Disrespectful* Words spoke by Mr. *Higgins*, he said they were, that Lord *Santry* and he were equal in Commission. His Lordship was *Born a Peer, and he was a Clergyman*.

Then a List of the Witnesses Summon'd in behalf of Lord *Santry* was publicly read, and it appear'd that Mr. *Parnel's* Name was not Contain'd in it.

The last Witness Examined in this Cause was *Thomas Carter Esq*;

He depos'd that *Foliot Shrigley Esq*; told him he was unwilling to appear as a Witness, because he had an Employment. He told Mr. *Shrigley* that his Fears were Groundless; for the *Duke of Ormond* was a *Generous, Brave, good natur'd Man*, and for his Part he had always Acted in the House of Commons according to his Judgment, and being ask'd whether he thought that Mr. *Shrigley* Intended to appear? He Answer'd, that he believ'd he did Obey the Summons, because he saw him afterwards at the *Rose-Tavern*, and at the *Publick Hearing* before the Lord Lieutenant and Council.

Mr. *Carter* was Examined at the desire of the Petitioner's Council as to the Behaviour of Mr. *Higgins* at the last Sessions, and he gave the following Account of the Quarrel, and the Presentment that attended it.

After the Dispute, when Mr. *Higgins* had left the Company, the Justices *consider'd* among themselves how they might live quietly for the time to come, and remove Mr. *Higgins* from the Commission of the Peace, *Two Methods were propo'd*, an Application to the Lord Chancellor, or a Presentment; they agreed to the Latter, and *he among others* went to the Jury, and desir'd them to find a Presentment against Mr. *Higgins*; that he knew not who Penn'd the Presentment, he believ'd none of the Jurors drew it, because except one or two, *none of them* were capable of Drawing it.

He added, that he had *some Knowledge of the Crown Law*, and that it is very *Usual in Pleas of the Crown* for Justices to go to the Jury, and desire Presentments, tho' he afterwards own'd, that he never went an *Affizes*, and he spoke only to the Practice at *Kilmainham*.

To a Question Propo'd by the Lord Chancellor, whether since he *Understood the Law*, he thought it Legal for Justices to go into a Jury-Room? He Answer'd, *that was a Question of Law*. And the Attorney General told him, it was a Question of Law; which, if fit to be a Justice of Peace, he ought to understand.

Mr. *Carter* was further Examined concerning the Proceedings at the *Rose-Tavern*, and whether Mr. *Molesworth*, Mr. *Forster*, or Mr. *Whitshed* were there, during the Examination of any of the Witnesses?

He Answer'd, that several Witnesses as they came from the County were Examined; that Mr. *Caldwell* generally Drew their Examinations, and Mr. *Boate* Swore them; that Mr. *Forster*, and Mr. *Whitshed* were twice there, and Mr. *Molesworth* once; that his Memory often *fail'd* him in his own Business, and he could not Distinctly remember who were present when Mr. *Baker* and others were Examined.

He further said, that there had been great Talk of *Healts* drank at *Kilmainham*, and he would give his *Opinion* of them. It was true that *Confusion* to several Persons had been often Drunk, but he always understood it of their *Devi-ces*, and Lord *Santry* Explain'd those *Healts* in that manner. As he was going on, the Lord Chancellor told him he ought not to speak before he was Ask'd.

Mr. *Carter* formerly, as I am told, a Footman to the Chancellor of the Exchequer, was by the Indulgence of his Master, which no doubt on't he remembers, Promoted to be his Clerk; he apply'd himself hard to the Study of the Law: I shall mention but one, as the most remarkable Proof how well his Labours Succeeded. At a Sessions held at *Navan*, Arch-Deacon *Benson* happen'd Unluckily to give the Church the Preference and to Pray after Dinner for the Church and Queen; when to his great Surprize he was immediately pronounc'd by the Eminent Mr. *Carter*, Guilty of a Premunire, by the 25th H. 8. C. 12.

Whether he must to Goal or what would become of him no Body could say, till an Arch Fellow at the Table overturn'd at once all Mr. *Carter's* Law by the Unquestionable Authority of the *Child's Guide*, a Book, says he, recommended to me in the most Pressing Terms, by that good Old Woman my Grand-mother. Besides that, it was Printed and Publickly Sold without any Censure or Animadversion in the Reign of Queen *Elizabeth*, Daughter to that very Prince by whom the Afore-cited Act was past; and in this very Book was I taught to Pray for the preservation of the Church, the Queen's Majesty, and her Realms.

Who can reflect without concern on the Misfortune of Mr. *Carter*, how so great a Genius may have been checkt by the Negligence or rather Ignorance of his Parents, in not instructing him early in a Book of such Catholick Use: Nay of most absolute Necessity towards forming the tender Minds of Youth, next I mean, and Immediately after the Fescue and Horn-Book, which perhaps too by *Them* were as much overlook'd and Neglected.

The last Day of the Tryal was Employ'd in Summing up the
 Novem. 19th, Evidence, and I will briefly relate what was observ'd by the
 1711. Lawyers on both Sides.

The Attorney General said, that three Points were chiefly Insisted on by the Petitioner's Council against Mr. *Higgins*.

The Weight of the Application.

The Charge of his Disturbing the Peace, und Breaking the Unanimity of the County. And, Par-

Particular Misdemeanours in the Commission of the Peace.

The *Weight* of the Application, and how far it ought to be regarded, appeared plainly from the Methods taken to obtain the Presentment, and to carry on the Prosecution.

A full and sufficient Discovery of the Proceedings of the Justices in this whole Affair was made by the Testimony of Mr. *Carter*, a Gentleman who allow'd of the Presentment, and was brought as a Witness to support it.

The Witnesses on both Sides agreed, that the first Exception taken against Mr. *Higgins* was at his Amendment of the Health, that the Laws may be the Measure of our Obedience, and that many hard Words pass'd afterwards.

Mr. *Carter* Swore, that he with Eight or Ten Justices *Consulted* together how they might remove Mr. *Higgins* from the Commission of the Peace; they agreed to get him Presented, and he with others went to the Jury and desir'd them to find a Presentment against him, and that it was a Thing commonly Practis'd for Justices to go into the Jury-Room to Ask Presentments, tho' he could remember no Instances of such a Practice in the *Queen's-Bench*, of which Court he is an Attorney, or at a Circuit, but at *Kilmainham* only.

The Attorney further Observ'd, that the Consultation of the Justices to *Procure* the Presentment, was in the Nature of a *Conspiracy*, and the Statute of *H. IVth*, Quashes all Indictments or Presentments made by *Conspiracy* or *Combination*, that Mr. *Carter* was so *Modest* as not to mention, who on the great Consultation propos'd the Expedient of a Presentment, and the Justices then thought that the *Weight* of their Application was not alone Sufficient.

That the *Kilmainham* Practice of Justices going to the Grand-Jury is *Unprecedented*, and Illegal, for if they be allowed to go to the Jury to Promote a Presentment, they may with as much reason go to prevent one, and save the greatest Criminal from Punishment.

That the manner of Prosecuting the Presentment was as Unwarrantable as the Artifices made Use of to Procure it, for Mr. *Caldwell* and others Swore, that several Witnesses (Summon'd at the desire of Lord *Santry*, to give Evidence before the Council) were first carried to the *Rose-Tavern*, and their Affidavits taken before a Master in *Chancery*, to prevent their *Going back in their Evidence*.

That the Charge of breaking the Unanimity of the County, was supported by no Evidence at all, the Prosecutor never attempted to prove that Mr. *Higgins* Disturb'd the Court, or interrupted the Publick Business, and the unhappy breach of Unanimity Complain'd of, consisted only in amending Healths begun by Lord *Santry*. He engag'd that his Client wou'd do no harm to any honest Unanimity, but he wou'd not promise for his compliance in drinking every Health propos'd by that Noble Lord.

As to the Crimes objected to Mr. *Higgins* in the Execution of the Office of a Justice of Peace, the great Charge of suppressing the Recognizances, lay wholly on the Testimony of Mr. *Stenhouse*, who deserves no Credit, and in this whole Affair, appears to be a notorious Criminal, for he drew the Indictment of Mrs. *Loyd*, before he acquainted the Court that the Recognizances were wanting; and it may be presum'd, that the bringing her on her Tryal was intended as a Favour to Lord *Santry*, for Mr. *Stenhouse* was a Friend to the Complainants, and a favourer of the Prosecution: He receiv'd a large Sum of Money for Printing and propagating the *Presentment*; and the Clerk of the Peace is a Gainer by stifling a Recognizance, and the clearing of a Criminal: Besides, Mr. *Higgins* offer'd his voluntary Oath, that he deliver'd the *Recognizances*, and is still ready to take it.

The Article of Whipping appear'd to be an Act of great Clemency; that Punishment was not only warranted by Law, but inflicted at the earnest desire of the Criminals; and is it then a High Crime in a Justice of Peace to Whip, with consent of the Parties, when they generally do it without and against Law?

He concluded, that a great part of the Accusation was *Ridiculous*; the rest was supported by no Evidence; That *Intense Malice* appear'd in the Prosecutors, their *Tampering* with Witnesses, their *Secret Consultations*, were very evident, and if their Illegal and Arbitrary Proceedings shou'd meet with Success, the Consequence wou'd reach farther than the Case of Mr. *Higgins*.

The *Solicitor-Generol* spoke next in Defence of Mr. *Higgins*,

He laid open the Proceedings of the Justices which preceded the Tryal, and shew'd the Innocence of his Client in the general Crimes alledg'd against him.

That if the *Presentment* of the Jury, and *Petition* of the Noble Lord were true, Mr. *Higgins* neither deserv'd a Commission of the Peace nor her Majesty's Protection.

In the *Presentment* the Jury Lump'd him at once as a Common Disturber of the Peace, and yet the Justices *Declin'd* the Lord Chancellor's Offer of a Hearing before him. His Lordship told them, that the *Presentment* was only an *Accusation without hearing the Party*, and he wou'd not Condemn a Gentleman Unhear'd: But they instead of producing Evidence to his Lordship of the Facts contain'd in the *Presentment*, immediately caus'd it to be *Printed*, and thereby *Appeal'd to the People*.

It is the Business of the Jurors to present such Matters as are given in Charge to the m. But those Gentlemen who Presented Mr. *Higgins*, made themselves Judges who were fit to preside over, and *Direct* them. They are also Sworn *Diligently to Enquire and true Presentment make*: Their *Presentment* must be founded on the Oath at least of one Credible Witness, and not on the Word of any Person except their own; Because it is an *Accusation* against a Fellow-Subject. A *Presentment* is the first Step to take away a Man's Life; it is the first *Process*, and a *Capias* is immediately issued.

It is the peculiar Prerogative of the Crown to appoint Justices of Peace, the Jury are Ministers to them, and the *Bench* ought to have rejected the *Presentment* of Mr. *Higgins* with Contempt and Scorn; for all the Justices make but one Court, and an Indignity offer'd to one Member ought to have been Resented by the whole Body. Besides, the same Grand-Jury are often call'd from *Kilmainham* to the *Queen's-Bench*, and may there with as much Reason Present any, or all of the Judges, for the Justices at the Sessions have equal Power with the Judges of her Majesty's Courts.

That Suggestion in Lord *Santry's* Petition, and insisted on by his Council, that Mr. *Higgins* was formerly removed from the Commission of the Peace on Complaint of the Gentlemen of the County, was altogether Groundless, for he was in *London* Eighteen Months before he was Superseded; no Crime was then objected to him; and Sir *Richard Cox*, who was at that time Lord Chancellor, can Testify the truth of this Particular.

The two Facts for which (as the Petitioner insinuates) Mr. *Higgins* was then turn'd out, were his calling Col. *Forster* an *Old Buck*, and *Drinking Confusion to all Dissenters*; The first Charge, if true, was only an unbecoming Expression: And the Witnesses who Swore to his Drinking Confusion to all Dissenters, own'd they sat at a great distance from him; they recollected no other Healths that pass'd, and Mr. *Salé*, who was then High-Sheriff, and *Presided* in the Company, did not remember the proposing that Health, and said, that had it been drank, he must necessarily have taken notice of it: And if the drinking Unchristian Healths be a sufficient Reason to turn Persons out of the Commission of the Peace, very few of the Gentlemen of the County of *Dublin*, who with so great *Unanimity* drank the Healths mention'd in Mr. *Twigg's* Evidence, wou'd be left in.

The Charge then of Insulting Lord *Santry* at the last Sessions, was the only Foundation of the *Presentment*; (and how little weight that shou'd have with their Lordships he urg'd from the Evidence, which has been often repeated, and therefore it is unnecessary here to insert) for the Tryal which occasion'd the imputation of compounding the Felony, was after the Quarrel at *Kilmainham*, and the Article of Whipping was since Discover'd, after the strictest Enquiry into the Life and Actions of Mr. *Higgins*.

Besides what was observ'd by the *Attorney-General* in the Article of stifling the Recognizances, the *Solicitor* added,

That Mr. *Higgins* first apprehended, that the Goods Stolen by Mrs. *Loyd* were of small Value, and therefore he was willing to Excuse her and send her home to *Wales*: The only Presumption against Mr. *Higgins* in this Affair was, the writing a Letter to his Wife at the request of the Receiver of the Goods: But to take off that imputation Mr. *George Higgins* Swore, That his Brother told *Connor* when he deliver'd him the Letter, that his Daughter and the other Parties bound over, must come to the Sessions and Prosecute.

And

And if it had been prov'd, that the Letter Mr. *Higgins* sent to his Wife contain'd Directions to agree with the Receivers of the Linnen, yet Mr. *Higgins* was not a Criminal on that account, for the Buyer of the Stolen Goods is not Punishable, unless he knew them to be Stol'n; *Connor, Farrel, and Brown*, were only to be Excus'd from *further Trouble themselves*, from *holding up their Hands at the Bar*, for *receiving the Linnen*; and Mr. *Higgins* might Lawfully Compound with them for his Losses.

Besides, Mr. *Hall* Swore, that the Recognizances were Written in little Scraps of Paper, that neither Mr. *Higgins* nor he could read them, that on the Morning of the Sessions Mr. *Higgins* folded them up within the *Examination*, and he never parted from him until he left him Seated on the Bench at *Kilmainham*.

And Mr. *Stenhouse* who was an Agent and Solicitor for the Prosecutors in this whole Affair, Confess'd upon Oath, that Mr. *Higgins* told him he would have Mrs. *Loyd* Prosecuted for *Petty Larceny*, and Whipt; which shews that Mr. *Higgins* Design'd a Prosecution.

The Solicitor concluded, that the Character of Mr. *Higgins* has greatly Suffer'd by the Prosecution, and by the Irregular Methods taken to support it; and if he should meet with a Discountenance from the Honourable Board, the World would conclude the Presentment to be Just and Legal.

A Motion was then made that Mr. *Higgins* might be allow'd to speak, Mr. *Gore* objected to it, because as he Alledg'd, his speaking would be of *Weight*.

The Lord Chancellor observ'd, that Originally the Party Pleaded his own Cause and Mr. *Higgins* could not justly be deny'd the Liberty of speaking for himself if he demands it.

Some Instances were given by the Lord Chief Baron of *Omissions* in Summing up the Evidence, as that of Colonel *Bellew* and others; Lord *Blessington* own'd, That the Proposal of Mr. *Higgins's* speaking was not unreasonable, and the Petitioner's Council gave no farther Opposition to it.

Mr. *Higgins* made a short Extempore Speech; in which, he was often unseasonably Interrupted by the Petitioner's Council: He spake in so Moving and Pathetical a manner, that he drew Tears from a great Part of the Assembly, and the Notes which were taken of his Speech, were on these Accounts few and Imperfect.

Then the Petitioner's Council Proceeded to make their reply, and to Sum up the Evidence in behalf of their Client.

Mr. *Aston* said, that every Branch of the Charge on Mr. *Higgins* had been prov'd to a Demonstration.

That it is not the Business now to try the Legality of the Presentment, but the Truth of the Particular Facts alledg'd against him, that he would briefly Re-capitulate the long Evidence, and put it in a clear Light.

Col. *Allen* Swore, That Seven Years ago, Sir *Richard Bulkley* told him, that he told Mr. *Higgins*, he Wonder'd a Man of his Character should drink such a Health as Confusion to all Dissenters; Mr. *Swan* and Mr. *Salé* confirm'd his Drinking that Health, and therefore a Man of such Principles is not Qualified to serve in the Commission of the Peace.

That the Charge of Insulting Lord *Santry* at the last Sessions was also clearly prov'd, for Mr. *Blackhall* Swore, that Mr. *Higgins* put on his Hat when Lord *Santry* came into the Room, and Mr. *Hill* Swore, that Mr. *Cock* told him, Mr. *Higgins* desired him to observe what should pass between Lord *Santry* and him, and tho' his Lordship sometime before the Sessions call'd Mr. *Higgins* a *Papist*, yet he call'd him so only in a *Jocose manner*.

The Article of Whipping objected to Mr. *Higgins*, is such an Offence as may lead him into greater Crimes if he be not stopp'd; for the Liberty of the Subject is very Precious, and by the Common Law, no Person can be Whipp'd without Prosecution, and the 10th of *Caroli* refers only to Stealing Standing Corn, or Robbing an Orchard.

Then as to the Charge of Compounding the Felony, Mr. *Wybrants* Swore, That he Bound over four Persons to Prosecute; Mr. *Hill's* Testimony put it out of Doubt that Mr. *Higgins* receiv'd the Recognizances, and Mr. *Stenhouse* who seems to be a very fair Evidence Swore, that when he look'd on his Papers in

Court there were no Recognizances among them, besides that, Mr. *Stenhouse* could not Advance himself by Stifling the Recognizances, for he would have receiv'd Fees from five Persons by the Prosecution of Mrs. *Loyd*, and it is reasonable to believe, that if Mr. *Higgins* had return'd the Recognizances, he would have made an Excuse to the Court for his Sister's not appearing to Prosecute.

He added, That the Presentment of Mr. *Higgins* is not a Thing of Dangerous Consequence, and that the Judges knew several Instances of Justices being turn'd out of the Commission on bare Application against them.

The Lord Chief Baron desir'd Mr. *Aston* to Instance a Case of that Nature, and he mention'd Mr. *Courcy Ireland* in the *Queen's County*, the Lord Chancellor said, that Gentlemen applied lately to him to put him into the Commission of the Peace, but he refus'd his Request until he was better Satisfied of his Capacity for that Trust.

The Lord Chief Baron several Times Corrected Mr. *Aston* while he was Summing up the Evidence, he observ'd, that the Council ought to confine their Pleadings to the Evidence given, and not to Briefs, that Mr. *Aston* omitted a Material Part of Mr. *Swan's* Evidence, his Sitting at another Table at a great Distance from Mr. *Higgins*, that Mr. *Sale* did not charge Mr. *Higgins* with drinking Confusion to all Dissenters, but on the contrary, clear'd him from that Imputation.

That tho' Mr. *Higgins* was not at the Sessions when the Tryal of Mrs. *Loyd* came on, yet his Attorney Mr. *Hale* was in Court, to excuse the Absence of Mrs. *Margaret Higgins*, and Mr. *Stenhouse* did not depose, that when he view'd in Court the Papers he receiv'd from Mr. *Higgins*, he found no Recognizances. Then the Earl of *Abercorn*, whose Notes of the whole Tryal were very Exact, publickly read the Testimony of Mr. *Stenhouse*, which was to this Effect, That when Mr. *Higgins* deliver'd him in Court some Papers, he put them in his Pocket without Viewing them, and that Night, or the next Morning, he mis'd the Recognizances.

This Tryal was concluded with the Pleading of Mr. *Gore*.

He said he was under some Difficulty how to behave himself in this Cause, because he was oblig'd to justify Lord *Santry* and the Gentlemen of the County from the Imputation of Endeavouring to Ruin Mr. *Higgins*, and in him the whole Clergy : He profess'd his own Resolution not to do the least Prejudice to the Constitution, or the Clergy of the Establish'd Church; and he observ'd, that the whole Order were not concern'd in the just Punishment of one of their Body.

That the best Rule of making a true Judgment of Mr. *Higgins*, was to compare his Character with the Law of God ; but his Client was Precluded from this Way of Proceeding, by the Order of his Grace and their Lordships.

That the Office of a Justice of Peace is not only to preserve the Peace, but to Maintain Amity, Unity, Concord, and Good Agreement among the Justices of Peace and others; and the Law forbids as well a Tendency to a Breach of the Peace, as a Publick Outragious Breach of it.

It is very Remarkable, that Mr. *Higgins* should forget his Modesty the first Day of his coming again into Office, and of his Appearance at *Kilmainham*, because Men Generally speaking, come by Degrees into the Freedom of Conversation.

The first Thing said at the Sessions by Mr. *Higgins*, was to Mr. *Joshua Allen* of his Father : Is Coll. *Allen* come hither to Propagate Loyalty ? Was then the Behaviour of Mr. *Higgins* Modest and Quiet, to have a Sarcasm in his Mouth at his first opening of it, that Expression carries Taunt and Reproach with it ; besides, it is pretty Extraordinary that Mr. *Higgins* should put on his Hat, when Lord *Santry* came into the Room.

The addition made by Mr. *Higgins* to the Health of the Laws being the Rule of our Obedience, and what he said of Strange Doctrines being formerly Advanc'd there, carried on Insinuation in it, which tho' it be no Actual breach of the Peace, tended to the breach of it, to the Disturbance of that Confidence which ought to be amongst her Majesty's Protestant Subjects.

The Charge of his Drinking Confusion to all Dissenters was fully prov'd, that Health tends to Sedition and Disturbance, and a Person in the Commission of the Peace who drinks it, gives Jealousies to so great a Body of People.

The

The Accusation of stifling the Recognizances relies not on the Credit of Mr. *Stenhouse* only, for the first recourse was to Mr. *Higgins* for a Letter to his Wife, to Order a Composition with the Parties, and Mr. *Hall* Swore, that Mr. *Higgins* was acquainted with the Bond before the Sessions, and that he believ'd favour and Kindness was intended by it, so that Mr. *Higgins* has done what he ought not to do, take it one Way or other, he is Guilty of Oppression, if all the Linnen were restor'd, by exacting a *Bond* for them, or of Compounding a *Felony*, if he did not receive all the Linnen.

As to the Intention of Mr. *Higgins* to Prosecute, it must be observ'd, what he said to *Wigmore*, That if *Jane Loyd* was not in *Calender* he would get her out, and Circumstances prove better than any other Testimony.

The Fellows who were formerly Whipp'd by order of Mr. *Higgins* for stealing Corn out of *Cassey's* Haggard, were neither Try'd by their Peers, nor Condemn'd by any positive Law.

The Article of the Furze-bush is no Jest, half a Crown is a deal of Money for a poor Fellow to pay, it is *Grinding* the Face of the Poor, and Mr. *Higgins* has in this Case made use of the Law to justify Oppression.

Mr. *Gore* added, that it is sometimes necessary to aply for the turning out of a Justice, and who are fitter than Jurors, who are Gentlemen Summon'd from all parts of the County; there is no other way to turn out a Justice, but by Application from those whose Business it is to enquire into all Breaches of the Peace; and in case Mr. *Higgins* shou'd be again Turbulent, how can he be remov'd from the Commission of the Peace? And if this Complaint be unsuccessful, who can, or will Apply again? And besides, it is fit People shou'd not be deterr'd from making any Application of the like Nature; and tho' this Accusation of Mr. *Higgins* be called a *Presentment*, it is only an Humble Representation, as appears from the Conclusion of it.

Then a Motion was made by the *Arch-bishop* of *Tuam*, that if Lord *Santry* had any thing to offer he might be allow'd to speak. But his Lordship excused himself, saying, that he had nothing to add to the Arguments of his Council.

The Company were immediately commanded to withdraw, and I cannot particularly inform you of what afterwards pass'd within-Doors.

The Question put to the *Board* was, Whether Mr. *Higgins* should be continued in the Commission of the Peace? It was Debated about two Hours, and was carry'd in the Affirmative by a Majority of Seventeen to Six.

All I could learn Remarkable of the Debate, came from the *Arch-Bishop* of *Dublin*; He warmly declar'd how unfit the Clergy were for Civil Offices; that they had greater Matters to take care of; nor was it proper for them to concern themselves or be entrusted with other Business. (In which his Grace seem'd to forget he was a *Privy-Counsellor*, tho' others think him as apt to forget he is a Clergy-man;) and then concluded with a Fable.

That when he was a Boy, one *Jackson*, a very Turbulent Lad was at the same School with him, this same *Jackson* was a very unlucky Boy, and disturbed the Peace of the whole School; several Boys whom he injur'd complain'd of him to the Master, but were never Redress'd, because *Jackson* told his Story so plausibly that his Master always believ'd him to be in the Right, and them to be in the Wrong: At length the Boys finding no other Remedy, Unanimously agreed to beat him one by one; so the First Boy of the School beat him, then the Second, then the Third, and so on: Whereupon *Jackson* was very uneasy, and wrote to his Father to remove him from the School; which he accordingly did, and the School was very Quiet, and the rest of the Scholars were very Easy after *Jackson* was gone.

His Grace of *Dublin* has a notable Talent at relating such Fables; and it is to be wish'd that a compleat Set of them were Collected for the Benefit of the World; Tho' I am apt to think that his Grace may forget this Apologue, as he not long since did the Story of *Piso*, which he as publickly told on the Occasion of *Guiscard's* Wicked Attempt on the Life of Mr. *Harley*, now Lord High-Treasurer.

Thus,

Thus, Sir, I have given you a faithful and exact Relation of Mr. *Higgins's* Tryal, and I have mention'd the very words of the Witnesses, as near as they could be taken.

The Papers I have subjoyn'd will give you a clearer Notion of the Prosecution, and the manner of supporting it, if you observe the Occasion of the *Presentment*, as it is truly Stated in Mr. *Higgins's* Case, and Answer, if you compare the Character given of him by the Convocation with the Opinion of the Justices and Jury ; The Charge against Mr. *Higgins* of Tampering with their Witnesses, with the Affidavits of *Farrel* and *Thornton* ; the Order of the Lord Lieutenant and Council confining the Complainants to such Facts as relate to the Office of a Justice of the Peace, with the Lord Santry's *Modest* and *Humble* Petition in Obedience to it.

What occasion'd, and has happen'd in, this Tryal, will furnish you with suitable Reflections, and when you have carefully perus'd the whole, you may then make a true Judgment of the Merits of the Cause, whether Mr. *Higgins* be a *Pestilent Fellow, and a sower of Sedition*, or whether those Justices are Loyal Subjects, who profess to *Obey only with Exceptions* ; are Moderate and Peaceable Men, who even *while they talked of Peace, made themselves ready for Battle*. I am,

S I R,

Your very Humble Servant,

N. N.

APPEN-

APPENDIX.

By the Grand-Jury of the County of Dublin, at the General Quarter-Sessions of the Peace, held for the said County the Fifth Day of October, 1711.

WHereas, the Justices of the Peace and Protestant Free-holders of the County of *Dublin* for many Years past, have preserved a good Understanding and Unanimity among themselves, whereby the Service of Her Majesty, and the Interest and Peace of the said County have been successively promoted.

And whereas *Francis Higgins* Clerk, Rector of *Balruddery*, in the said County, being formerly admitted into the Commission of the Peace of the said County, did behave himself in a manner so turbulent and unbecoming the Character of the Sacred Function of a Clergyman, that upon the Application of the Gentlemen of the Bench of Justices of the Peace, he was to their General Satisfaction, turn'd out of the said Commission by Sir *Richard Cox*, whilst he was Lord Chancellor; whereby the former Unanimity and good Understanding between the said Gentlemen was restored.

And whereas the said *Francis Higgins* being lately put into the said Commission of the Peace, Yesterday at his first appearance among the Gentlemen of the said County, in a very provoking manner insulted the Right Honourable *Henry Lord Baron of Santry*, and other Gentlemen of Quality and Fortune, then present at the said Session.

And whereas the said *Francis Higgins*, since his last return from *London*; hath, by many repeated Insolencies, Abus'd, Traduc'd, and ill Treated several of the said Justices of the Peace, and other Persons of known Loyalty and Affection to Her Majesty's Government.

We therefore Present the said *Francis Higgins* to be a Common Disturber of Her Majesty's Peace, and a Sower of Sedition and groundless Jealousies amongst Her Majesty's Protestant Subjects, and therefore desire the Honourable Bench to Concur with us in laying this our Presentment before the Lord Chancellor of this our Kingdom, and to desire his Lordship would be pleased for the Ease and Quiet of this Country, to turn the said *Francis Higgins* out of the said Commission of the Peace.

*John Allen,
Charles O'Hara,
John Shephard,
Harvey Sale,
William Gay,
Henry Martin,*

*Thomas Kennan,
Samuel Winter,
John Allen,
Francis Grovesnor,
William Vipond,
John Allen,*

*Henry Davis,
Thomas Carshore,
Richard Halpenny,
Roger Tuthill,
Henry Clayton.*

ON Reading of which Presentment, it was Ordered by the Court, that the same be allowed of, and at the Request of the Grand-Jury it was Ordered to be Printed.

James Stenhouse D. Clerk of the Peace.

Mr. Higgins's CASE.

ABOUT Seven Years ago Mr. Higgins was put into the Commission of the Peace for the County of *Dublin*, by Sir *Richard Cox*, then Lord Chancellor of *Ireland*: and Acted as such for some Years. But being oblig'd to go into *England*, and stay there for some Time, he had the Misfortune to fall under the Displeasure of the Lord *Sunderland*, then one of her Majesty's Principal Secretaries of State, for Preaching a Sermon in her Majesty's Royal Chappel at *White-Hall*, for which he was by his Lordship's Warrant taken into a Messenger's Hands, and continued Prisoner for several Weeks. This rais'd so great a Clamour against him here, that Sir *Richard Cox* thought fit to supersede him. About two Months ago, the Present Lord Chancellor Sir *Constantine Phipps*, upon the Recommendation of two of her Majesty's most Honourable Privy Council, Order'd him to be again inserted in the Commission: And on *Thursday* last, Mr. Higgins took his Place on the Bench, at the Quarter Sessions then held for the County at *Kilmainham*.

When the Court was Adjourn'd, the Justices as usual went to Dinner. The Right Honourable the Lord Baron *Santry* sat at the Sheriffs left Hand, and towards the Close of Dinner, nam'd all the Healths to the Sheriff. After her Majesty's Health, and Prosperity to *The Churches of Ireland and England* had gone Round, the Lord *Santry* Nam'd aloud, *To the Glorious and Immortal Memory of King William*.

Upon which there happened a Discourse amongst some of the Gentlemen present, as near as I can Recollect as follows.

Lord *Santry*.] To the Glorious and Immortal Memory of King *William*.

Mr. *Rowley*.] And may he be Hang'd as high as *Haman* who refuses it.

Lord *Santry*.] No, *That's too good a Death for him; May he be Starv'd to Death*.

Mr. *Higgins*.] Pray Mr. *Rowley*, let us have no Cursing here, as much Blessing as you please.

Mr. *Rowley*.] Sir, they can't be Cursed too much who refuse it; For it is to him we owe all our Lives, Liberties and Properties.

Mr. *Higgins*.] Under God Mr. *Rowley*.

Mr. *Rowley*.] 'Tis in God we live, and move, and have our Being.

When the Glass came to Mr. Higgins, he Fill'd, and Drank it thus, *To all who Lov'd King William when alive, and Honour his Memory now he is Dead, and are truly thankful to God for the Revolution*.

This the whole Company seem pleas'd with. The next Health my Lord Named, was *To all those Honest Gentlemen who make the Laws the Rule of their Obedience*. To which Mr. Higgins added (when it came to him) *And where they can't Obey, will patiently Suffer*.

This put my Lord into a Passion, which he thus Vented.

Sir, What do you mean by that, Sir?

Mr. *Higgins*.] I mean Sir, *That where we cannot Obey, we must not Resist*. There have been strange Doctrines relating to Obedience maintain'd of Late: And I think every Man who is Honour'd with her Majesty's Commission, ought to be tender of her Royal Prerogative.

Mr. *Upton*.] Sir, *The Prerogative is part of the Law of the Land, and it is Common Law*.

Mr. *Higgins*.] I know it is Sir.

Lord *Santry*.] Do you come here Sir, to break the Peace of the Country, Sir, and Bully the County, Sir? You were once already turn'd out of the Commission, Sir, by the Complaint of the Gentlemen of the County, Sir, for breaking the Unanimity of the Country, Sir, and abusing the Gentlemen; and we will have you turn'd out again, or I will not serve, Sir.

Mr. *Higgins*.] I never heard till now, my Lord, that the County made any Complaint of me, I don't remember that ever I abus'd any of the Gentlemen.

Lord *Santry*.] How Sir! You abus'd Col. *Forster*, Sir.

Mr. *Stepny*.] Yes Sir, you did Affront Col. *Forster*.

Mr. *Rowley*.] I remember Sir, how you rose up and held up your Glass thus——

Col. *Dean*.] There is no bearing this, if one Man must come here and huff the whole County.

Lord

Lord Santry.] Yes, Sir, you did abuse Col. Forster, and were turn'd out for it, upon the Complaint of the Gentlemen; and we will go in a Body, and will have you turn'd out again.

Mr. Higgins.] I now remember I had some Words with Colonel Foster here, but it was upon his and Sir Richard Bulkley's affirming, That the Crown of England was Elective; That Her Majesty held it from the People, and if she did not Rule according to Law, she was accountable to the People, and may be Depos'd as her Father was. This I say'd was Treason, which I neither could then hear, nor ever will, without opposing any Man who dares say it.

Lord Santry.] We all know how you Abus'd the Colonel, and upon our Complaint, you were turn'd out, Sir, and shall be so again, Sir.

Mr. Hig.] My Lord, indeed you are under a great Mistake, I was near Two Years in England before I was put out, it was when I was in Prison there for discharging my Duty; I am far from being asham'd of it, I rather Glory in it.

Lord Santry.] Ay Sir, we all know you Glory in your other Evil Actions; in managing False Witnesses, Sir.

Mr. Hig.] My Lord, This is not Language to be given any Man. I have a just and true Honour for your Lordship, as you are a Peer; But Pardon me, my Lord, If I affirm every Man in the Queen's Commission here, is so far upon the level, that I have as much Right as any Man here to speak my Opinion without being us'd thus.

Lord Santry.] Sir you are very Impudent; Gentlemen, did you ever hear or see so much Impudence? If you were not a Clergyman, Sir,--- I wou'd use you another way, Sir,--- I wou'd teach you Sir---

Mr. Hig.] My Lord, There is no Honour in Affronting Women and Clergymen, because there is no Danger in't: However we are Men, and may be provok'd by such ill Usage, to forget we are Clergymen. Upon this there was a confus'd Noise of several Gentlemen speaking at once, and declaring, That "if such a Man were allow'd to come and Affront Gentlemen at this rate, they" wou'd serve no longer.

Councillor Grace endeavour'd all in his Power to reduce 'em to Temper, and to stop the Discourse. Mr. Higgins in a litile time comply'd; but the Noise against him encreas'd as he grew silent. At last my Lord Santry said thus;

Here's an Impudent Fellow comes to Bully us, and reflect on the Gentlemen of the County. I affirm, that I and all the Gentlemen here, have as high a value and esteem for the Person and Government of my Lord Whart—Ormond, as any Persons in the Kingdom.—Do you see Gentlemen how he laughs at every thing I say.

Mr. Hig.] Upon my Word, my Lord, I did not Laugh at you, I ask your Pardon; my Lord, I did not Laugh at you, I Laugh at something said here.

Mr. Allen.] Upon my Word and Honour, my Lord, Mr. Higgins did not Laugh at you, but at something I said to him. I must do all Mankind Justice.

But all this wou'd not satisfy my Lord; he went on in a great Passion against Mr. Higgins, calling him Impertinent, Impudent; said he was sent to Bully the Country; and frequently told him, that if he were not a Clergyman, he wou'd do himself Right another way. To all which Mr. Higgins only answer'd,

My Lord you were born a Peer, and I am a Clergyman; I hope we are both safe. And said no more, tho' highly provok'd by very passionate Language from my Lord, Col. Deane, Mr. Rowley, and Mr. Stepney, to continue the Dispute.

At last my Lord Santry began, Prosperity to the Loyal City of Dublin. To which Mr. Upton added, And may they preserve their Liberties and Charters against all Attempts whatever.

My Lord Santry then very loudly said; Here is my Lord Wharton's Health; adding, I know what you Laugh at: Now it is out. Upon this there was a general approbation of the Health among the Company, many declaring, They were not afraid to drink so honest a Gentleman's Health; and that they wou'd drink it till he were Impeach'd. Upon that, Mr. Higgins rose from Table and went into Court. What follow'd next Day they have Printed.

It is hoped the whole CASE will be laid in a few Days before his Grace the Lord Lieutenant and Council, for their Determination. But to obviate the Malice and Calumny of his Enemies, this is in the mean time Published, and left to the consideration of Honest Men. Dublin, Octob. the 6th, 1711.

By Francis Higgins.

To His Grace *James Duke of Ormond*, Lord Lieutenant-General, and General Governor of Ireland, &c. And the rest of Her Majesty's most Honourable Privy-Council.

The Answer of Francis Higgins Clerk, to a Presentment made by the Grand-Jury of the County of Dublin, at the General Quarter-Sessions of the Peace, held for the said County the Fifth Day of October, 1711. And now laid before this Honourable Board.

THIS *Respondent* saving and reserving to himself the Liberty and Benefit of Excepting to the said Presentment of Accusation, as altogether uncertain and insufficient to be Answer'd unto: For Answer thereunto saith, That the same is so general and ambiguous, that the *Respondent* cannot make any precise and particular Answer thereto. But to the general and uncertain Allegations therein contain'd, the *Respondent* saith, That he never broke the Unanimity of the County.

That the *Respondent* had the Honour some Years ago to be in the Commission of the Peace, in which he humbly presumes to say, *He behav'd himself in no turbulent manner, or any way unbecoming the Character of his Sacred Function, nor ever heard of any Complaint against him, or of Application being made for the turning him out, as is Alledged*: But for the Truth of that Particular, refers himself to the Right Honourable *Richard Cox*, who superseded him therein, while this *Respondent* was in England, where he had been for about Eighteen Months before. That the *Respondents* had the Honour to be incerted in the present Commission upon the Recommendation of two Members of this Honourable Board.

That this *Respondent* did not Insult the Right Honourable *Henry Lord Baron of Santry*, and other Gentlemen of Quality and Fortune; but on the contrary, this *Respondent* was most shamefully Abus'd by them, without any Provocation given 'em by this *Respondent*.

That the *Respondent* is not a disturber of Her Majesty's Peace, or a sower of Sedition and Groundless Jealousies amongst her Majesty's Protestant Subjects; and humbly hopes, That when this *Respondent* shall be heard against the severe Charges in the said Presentment, this Honourable Board will be of Opinion, *That her Majesty's Peace is in no danger of being Disturb'd, or her Protestant Subjects of being mov'd to Sedition, by any Example shewn, or Doctrin maintain'd by him.*

Since this *Respondent* has the Misfortune to stand Accus'd, and to be Charg'd as a Person unqualify'd to bear her Majesty's Commission of the Peace: He humbly hopes it may not be thought immodest in him, to insist, That during the time he has had the Honour to be in the Commission of the Peace for the County of Dublin, he has behav'd himself with Duty and Loyalty to her Majesty, and with a due regard to his Office of a Justice of the Peace, and the Trust thereby repos'd in him; And that upon due Enquiry to be made, he will be found, in no sort of Qualification necessary for that Office, inferior to many of those who have the Honour to be in the same Commission with him.

And therefore, since the *Respondent's* Character greatly suffers, as well by this injurious Presentment, unprecedented, if not illegal, as by the Printing and Publishing thereof; He with great Humility, implores this Honourable Board, *To appoint some short Day when his Accusers and he may be hear'd, and this Respondent be reliev'd, in such a manner, as to the Justice and Wisdom of this Honourable Board may seem meet.* Octob. the 9th, 1711.

Francis Higgins.

By

By the Lord Lieutenant and Council of Ireland.

ORMOND.

THE Matter of Complaint against *Francis Higgins* Clerk; in a Presentment of the Grand-Jury of the County of *Dublin*, being Considered by the Board,

Order'd, That particular Instances of the General Allegations against the said *Francis Higgins* in the said Presentment, be given into the Board, on or before *Tuesday* the 23d Instant *October*; and that on the giving such Instances, the Persons complaining be confined to such Facts as concern his Behaviour as a Justice of the Peace during the time of his first being in the Commission, and also relate to the Facts alledged against him the said *Francis Higgins*, since his being in the Commission of the Peace the second time.

Given at the Council-Chamber in Dublin, Octob. 19th, 1711.

Con. Phipps, Can.	Blessington,	Rob. Doyn,
Will. Dublin,	Will. Meath,	Ro. Rochfort,
John Tuam,	W. Kildare,	Cha. Deering,
Kildare,	St. Geo. Clogher,	John Pereivale,
Montrath,	Kerry,	Ed. Southwell,
Anglesey,	Cha. Fielding,	Will. Stewart.
Abercorne,	Rich. Cox,	

To His Grace *James Duke of Ormond*, Lord Lieutenant-General, and General Governor of *Ireland*, and the rest of Her Majesty's most Honourable Privy-Council.

The Humble PETITION of the Right Honourable *Henry, Lord Baron of Santry*,

Sheweth,

THAT *Francis Higgins*, Rector of *Balruddery* in the County of *Dublin*, being formerly turn'd out of the Commission of the Peace by *Sir Richard Cox*, who first admitted him into the same, was lately put into the Commission of the Peace for the County of *Dublin* by *Sir Constantine Phipps*, the present Lord Chancellor of Ireland.

That the said Mr. *Higgins* by his *Turbulent Behaviour and Scandalous Practices*, rendred himself justly *Obnoxious* to almost every Gentleman in that County: And on his first Appearance amongst them at the last Sessions at *Kilmainham* Insulted and Abused your Petitioner before many of the Justices of the Peace, and other Gentlemen of the County.

That the Grand-Jury of the said County made their Application to the Bench, Desiring they would oyn with them in requesting the Lord Chancellor for the Ease and Quiet of the County, to turn the said Mr. *Higgins* out of the Commission of the Peace, for the Reasons set forth in their Representation of the said Mr. *Higgins*, which has since been Printed by the Title of the County of *Dublin's Presentment*.

That your Petitioner, and several other Gentlemen of the County, attended the Lord Chancellor, and laid the same before his Lordship, and were in hopes so much Credit would have been given to the Representation of the Grand-Jury,

(b)

and

and the Application of several *Noblemen*, and Men of *Quality*, and others of the best *Estates* in the County, That the said Mr. *Higgins* would thereupon be removed from the *Commission of the Peace*; And therefore your *Petitioner* thought it needless to offer any Proofs to support the *Facts* which were so Solemnly Attested by the *Body* of the County.

That your *Petitioner* finding the aforesaid Application had not its intended Effect, your *Petitioner* with the Knights of the Shire, and other Justices of the Peace of the said County attended the Lord *Chancellor*, and then acquainted him that the Gentlemen of the County believing their Joynt Application to his Lordship might have had Weight sufficient to remove a Person so Obnoxious as Mr. *Higgins* was from amongst them, and therefore did not trouble his Lordship in producing any Evidences before him; Nevertheless told his Lordship, they were ready to make out the *Facts* charged against him by the *Grand-Jury* of the County, and desired his Lordship to appoint a short Day for the Hearing thereof. To which his Lordship was pleased to Answer, That the *Cause* was gone from him, and lay before the Lord Lieutenant and Council, who would hear the same.

That the said Mr. *Higgins*, pursuant to an Order of the Council-Board, put in an *Answer* to the *Representation* of the County of *Dublin*, and thereby joyned *Issue* on the several Matters charged against him by the said *Grand-Jury*, by denying in his *Answer*, That he behaved himself in a *Turbulent Manner*, or any way unbecoming the Character of his Sacred Function, or that he was a *Disturber of the Peace*, or *Sower of Sedition*, &c. And desired to be heard against the said Charges; Whereupon *Tuesday* the 16th of this Instant *October*, 1711. being appointed by your Grace, and Lordships, to hear the Matter of the said Accusation; Your *Petitioner* accordingly prepared for the said Hearing, and took out several *Summons's* from the Deputy-Clerk of the Council, and brought to this Town many Witnesses out of the Country, and some at least Forty Miles, and then Instructed and Feed his Council; and being ready for a Hearing, was told the same was put off, but had no Notice sent him by the Deputy-Clerk of the Council, or any by his Order; Neither did your *Petitioner* ever hear any Reason for putting off the same.— That the Hearing being put off till *Friday* the 19th of this Instant, your *Petitioner* was at the Expence and Trouble of renewing all his *Summons's*, and serving the Witnesses therewith a second time.

That several of your *Petitioner's* Material Witnesses against the said Mr. *Higgins*, were between the first and second time appointed for Hearing the said Accusation, prevailed on by the said Mr. *Higgins*, or those that acted for him, to Disappear, tho' Summoned; Others went out of Town; several (particularly some in Office) expressed an Apprehension of drawing *Inconveniencies on Themselves*, should they give Evidence against Mr. *Higgins*.

That your *Petitioner* labouring under these Difficulties, endeavoured with more Caution to prepare for the said Hearing, and thereupon ordered his Agent to take the Testimony of his remaining Evidences from their own Mouths, and then to Lodge them (being Country People) in some Place, where Mr. *Higgins* could not come at them; Nevertheless so Industrious was the said Mr. *Higgins* to possess himself of your *Petitioner's* Witnesses, that one *George Higgins*, Brother of the said *Francis Higgins*, the very next Morning found them out, and carrid them to *Francis Higgins's* Lodgings, thence to one *Hale's* Office, formerly the Sub-Sheriff's Clerk, and there the said *George Higgins*, and the said *Hale* shut themselves up with your *Petitioner's* said Witnesses, and were found by your *Petitioner's* Agent Tampering with them, in order to render their Testimony Ineffectual.

That your *Petitioner* in Obedience to Your Grace and Lordships Order, prepared a second time for the said Hearing on *Friday* the 19th Instant, and Attended several Hours at the *Castle* with his Evidences and Counsel, and at length was told the Hearing was put off or adjourned *sine die*; And soon after Your *Petitioner* received Your Grace and Lordships Order, Directing, That Particular Instances of the General Allegations against the said *Francis Higgins* in the said Presentment, should be given into the Council-Board, on or before *Tuesday* the 23d Instant: And that in the giving of such Instances, the Persons Complaining, should be confined to such Facts as concern his Behaviour as a Justice of the Peace, during the
Time

Time of his being first in the Commission of the Peace, and also relate to the Facts alledged against him the said Francis Higgins, since his being in the said Commission of the Peace the second Time: By which Order your Petitioner apprehends he is debarred from proving the Facts contained in the Presentment; and is confined in his Proof to Matters concerning Mr. Higgins's Behaviour as a Justice of the Peace, which is no part of the Accusation contained in the said Presentment, there being nothing mention'd in the said Presentment of Corruption or Male Administration in him the said Francis Higgins as a Justice of the Peace.

That in regard the said Francis Higgins continued but a short time in the Commission of the Peace for the said County, should your Petitioner be confined only to Facts within that Time, a great part of your Petitioner's Evidence, which would prove the said Francis Higgins unworthy of Her Majesty's Commission of the Peace, would be Excluded.

That your Petitioner was prepar'd to prove many Instances of the said Mr. Higgin's Seditious Turbulent Behaviour, in Framing or Publishing several Scandalous Libels, particularly one against the Arch-Bishop of Canterbury, Intituled, *A Postscript to Mr. Higgins's Sermon, very necessary for the better Understanding of it: Which Libel was burnt by the Hands of the Common-Hangman, by Order of the House of Lords in this Kingdom, and Censured by the Lower-House of Convocation in this Kingdom, in the Words following, (viz.) Resolved, That a Dialogue intituled, A Postscript to Mr. Higgins's Sermon, very necessary for the better Understanding it, is a Scandalous Pamphlet, designed to vilify and lessen his Grace the Arch-Bishop of Canterbury, and tends to create dangerous Jealousies between the Governors of the Church and other Great Men. Resolved, That We believe this Dialogue is a very unfaithful Representation of a Discourse between the Lord Arch-Bishop of Canterbury and Mr. Higgins. Resolved, That in Case it shall hereafter appear that any Person under the Jurisdiction of this Convocation is the Author or Publisher of this Libel, he ought to be duly Censur'd and Punish'd by this Synod.*

Resolved, That the Lords the Bishops be desired to use proper Means to discover the Author and Publisher of the said Libel.

That since the making the said Resolutions by the Lower-House of Convocation, and before the said Presentment was made by the Grand-Jury of the County of Dublin, a Reverend Divine and a Member of the Convocation, took upon him Publickly in the Convocation-House, to prove the said Mr. Higgins to be the Author of the said Scandalous Libel.

Your Petitioner further Sheweth, that he is ready to prove, that the said Mr. Higgins hath Libel'd, or publish'd Libels against several Gentlemen of known Worth and Loyalty in this Kingdom; and can give several Instances of his Turbulent and Seditious Behaviour, particularly,

That the said Mr. Higgins being denied Entrance into the House of Commons by the Door-keeper, said thus to him, *Go tell the Speaker (Mr. Broderick being then in the Chair) My Name is FRANCIS HIGGINS! And, that I know him to be an Enemy to the Church and all Church-Men! For which Act of Insolence the said Mr. Higgins was obliged to make his Submission and beg Pardon!*

That the said Francis Higgins having proposed a Reference to two Lawyers, the present Speaker being Named one of the Referees, he Reproached him in the the following Terms, viz. *I hate your Man, his Principles and Morals; And laying his Hand on his Sleeve, said, If it were not for this GOWN, I would pull him by the Nose where-ever I met him!*

That your Petitioner can prove, That the said Mr. Higgins about a Year past, in a Publick Coffee-House, Insulted Mr. Richard Nutall on the Sabbath-Day, calling him Rogue and Rascal! And said, *Were it not for his GOWN, he would slit his Ears!*

That your Petitioner can prove, that the said Mr. Higgins to Reproach Her Majesty's just Administration, Seditiously said in a Publick Coffee-house, that *Forty-One* was coming in again, and if it do's, says He, *I can Cant, and wear a short Cloak, and perhaps Rub-down my Land-Lady too, — as well as another.*

That your Petitioner can prove, that the said Mr. Higgins has publickly at a Quarter-Sessions drank Confusion to all Dissenters, and been Guilty of many other Seditious and Turbulent Practices, and is so Noted for the same, that when he

he comes into the *Coffee-houses*, People to avoid his *Insults*, either retire thence, or withdraw themselves at a great Distance from him.

That your *Petitioner* can prove, the said Mr. *Higgins* in many Instances hath behaved himself unbecoming the *Character* of a *Clergy-Man*, by Demeaning himself Contemptuously to his *Diocesan* the Arch-Bishop of *Dublin*, by Affronting him at his *Visitations*, and reproaching him with *ill Language* there, and in other Places.—By Marrying without *Licence*, by *Antedating* a *Matrimonial Certificate*, whereby *Foliot Shrigley*, Esq; was in Danger of Losing Five Hundred Pounds.

That your *Petitioner* can prove several Instances of the said Mr. *Higgins's* *Lewdness and Immoralities*! Which are fitter to come from the Mouths of the *Witnesses*, than to be disclosed in any other manner.

May it therefore please your Grace and Lordships to permit your *Petitioner* to prove the several *Matters* herein before set forth, they being so many Instances or Proofs of the *General Charges* against the said Mr. *Higgins* Express'd in the said *Presentment*; But in Case your Grace and Lordships shall continue of Opinion, that your *Petitioner* ought to be confined to such *Facts* only as concerns Mr. *Higgins's* Behaviour as a *Justice of the Peace* during the first and second time of his being in the *Commission of the Peace*, your *Petitioner* in Obedience to your Grace and Lordships Order of the 19th of *October* Instant, doth give in to this *Honourable Board* by this his humble *Petition* the following particular Instances of the said Mr. *Higgins's* *Corruption* in his Office as *Justice of the Peace*, and *Illegal Behaviour* therein, (*viz.*) That one *Jane Loyd* having lately Stole some Old *Napkins and other Goods* of small value from Mr. *Higgins*, at his House in *Balruddery*, Sold part thereof to the value of 3 Shillings to one *Elizabeth Farrel* of *Balruddery*, and another small parcel to the Wife of one *James Conner* and one *Morgan*, the whole not being worth above five Shillings: Whereupon the said *Jane Loyd* was carryed before *Daniel Wybrants*, Esq; a Neighbouring Brother *Justice of the Peace* to the said Mr. *Higgins*, who took *Examinations* on Oath, of the said *Felony* against the said *Jane Loyd*, and at the same time took three several *Recognizances* from the Persons who bought the said Goods, to Prosecute the said *Jane Loyd* at the last *Sessions* at *Kilmainham*, and then delivered the *Recognizances* with the *Examinations* to Mr. *Higgins's* Sister, telling her, that he the said *Wybrants* was so ill of the *Gout*, that he could not attend at the Approaching *Sessions* at *Kilmainham*, and directed her to deliver the three *Recognizances* and the *Examinations* to her Brother Mr. *Francis Higgins*, and (to desire him to return the same to the Clerk of the Peace) which accordingly she did. That the said Mr. *Higgins* and his Wife frequently threatned the poor Woman, who Inadvertantly bought the said Goods, that they should be Whipped at *Kilmainham*, whereby they and their Husbands were so terrified, that they applied to Mrs. *Higgins* the Wife of the said *Francis Higgins* to make *Reparation* for any Damage Mr. *Higgins* had Sustain'd by their Buying the aforesaid Goods; Whereupon the said Mrs. *Higgins* Demanded three Pounds, being more than ten times the value of the Goods by them bought as aforesaid, which Terms they being neither able nor willing to comply with, the said *James Conner* and *Elizabeth Farrel* came to *Dublin* to the said Mr. *Higgins's* Lodging, and proposed to agree with him on easier Terms, and ask'd him what he thought was reasonable for them to pay, to which Mr. *Francis Higgins* Answer'd, that if they would not pay him *Thirty Shillings*, he would Prosecute them for Buying the same: At length the said *Conner* and *Elizabeth Farrel* agreed to Mr. *Higgins's* Proposal; and thereupon, Mr. *Higgins* gave them a Letter to his Wife, then at *Balruddery*, and bid them give Bonds with good Security, Payable to him, and to deliver them to his Wife, and then told them they need not go to the *Sessions* to Prosecute the said *Loyd*; and accordingly the said *Conner* and some of his Friends Perfected a Bond to the said *Francis Higgins* for the Sum of *Thirty Shillings*, which Bond was Witnessed by Mr. *Hall*, the said *Higgins* Curate at *Balruddery*. That the said *Francis Higgins* carried the Original *Examinations* taken before the said *Wybrants*, and delivered the same with his own Hand to the Clerk of the Peace of *Kilmainham*, but did not return the *Recognizances*, The *Felony* being Compounded, and a Bond given for Payment of the Money for the Goods Stolen, as aforesaid.—

That

That the Examinations given against the said *Jane Loyd* being full, the Grand-Jury found a Bill of Felony against her, and she came to Tryal, but was acquitted for want of Evidences; the three several *Recognizances* not being return'd by the said Mr. *Higgins*, who then and some time before the Felony committed, was a *Justice of the Peace* in the said County.

That your *Petitioner* can prove, that when the said Mr. *Higgins* was first admitted into the Commission of the Peace, he Acted *Arbitrarily*, for, that by the Law of the Land no Corporal Punishment can be inflicted on any of her Majesty's Subjects before they be Legally Convicted. — That the said *Francis Higgins* without Tryal or Conviction, Order'd three Persons who were Travelling the Road, and had taken two Sheaves of Oates out of one of his Tenant's Haggard's to be Stripped Naked down to the Waste of their Bodies, and made each Whip the other round an old *Ash-Tree* with large *Switches*, whilst he the said Mr. *Francis Higgins* stood by with a *Switch* in his Hand, and laid on them himself with severe Stroaks, as often as they passed by him!

That most of the Gentlemen of the County of *Dublin* can prove, that as often as the said *Francis Higgins* came amongst them, especially at their Sessions, he created Heats and Disturbances: And therefore hopes your Grace and Lordships for the Service of her Majesty, and the Quiet of the said County, will Order the said *Francis Higgins* to be turn'd out of the Commission of the Peace.

And he will Pray, &c.

Santry.

Mr. HIGGINS's Printed Case, Relating to Sir Richard Bulkley, and Colonel Forster; Prov'd Notoriously False and Scandalous, &c.

JOH N A L L E N of *Stilorgan* in the County of *Dublin*, Esq; deposeth; that he was present at the Sessions at *Kilmainham* some Years since, when some Words happened between Sir *Richard Bulkley*, Colonel *Forster*, and Mr. *Higgins* the Minister, and that this Deponent that Day sat next to, or near the said Colonel *Forster* at the Table, where Discourfing of the late Revolution, Colonel *Forster* Justified and approv'd the same, and thereupon began a Health to the Glorious Memory of King *William*: Whereupon the said Mr. *Higgins* call'd the said Colonel *Forster* an Old Buck, and said, he was not to Prescribe to them, or Exprest himself to that Effect, and Immediately after, heard the said Sir *Richard Bulkley* reprove the said *Higgins* for Drinking Confusion to all Dissenters, the said Sir *Richard Bulkley* saying, Good Lord, what do I hear from a Man of your Cloth! Let me tell you, Sir, it was an Un-christian Health to Drink Confusion to so great a Body of People, Conversion if you please, but not Confusion, or Words to that or the like Effect. This Deponent further saith, that he believes in his Conscience, that the intire Paragraph in the Printed Paper, call'd, *Mr. Higgins's Case*, wherein it's alledg'd, that Colonel *Forster*, and Sir *Richard Bulkley* affirm'd, that the Crown of *England* was Elective; that the Queen holds it from the People, &c. is False and Groundless, this Deponent at that, or any other time never having heard either of the said Gentlemen assert any such Positions. That this Deponent for many Years before the Death of the said Colonel *Forster*, was well acquainted with him, and never observ'd by his Words or Actions that he was a Man of the Principles set forth in the said Mr. *Higgins's Case*, but to the contrary, that he was well affected to the present Establishment, both in Church and State, as this Deponent verily believes.

Jurat cor. me 13 die Octob. 1711. GODFREY BOATE.

John Allen.

Hugh

HUGH ROWLEY of *Westpalstown* in the County of *Dublin*, Esq; deposeth, that he was some Years since present at the Sessions at *Kilmainham*, when some Words arose between Sir *Richard Bulkley*, Colonel *Forster*, and Mr. *Higgins*, and that Day sat at the Table next the Window with Mr. *Swan*, and other Justices of Peace, and near the end of the big Table where the said Colonel *Forster* sat, and deposeth, that he heard no such Words spoken by Colonel *Forster*, and Sir *Richard Bulkley*, as in Mr. *Higgins's* Printed Case they are Charged with, nor any Words tending to that or the like Purpose, but in his Conscience believes, that the said Paragraph in the said Printed Case is False and Groundless. That he heard the said Mr. *Higgins* that Day begin a Health in these Words, *Confusion to all Dissenters*, after the said Colonel *Forster* had begun a Health to the Glorious Memory of King *William*; and that on Drinking the said last mention'd Health, the said *Higgins* said, as this Deponent was then informed by them that sat nearer the said Mr. *Higgins*, *What does that Old Buck prescribe Rules to us?* But this Deponent did not hear the said Mr. *Higgins* say the same. This Deponent further saith, that the said Colonel *Forster* was well esteem'd by the Gentlemen of the Country, and known to be well affected to the Establishment both in Church and State. This Deponent further deposeth, that the said Sir *Richard Bulkley* at that time reprov'd the said *Higgins* for Drinking Confusion to all *Dissenters*. This Deponent verily believes, that if any such Words had been spoken of her Majesty, as in the Printed Case is mention'd; or if the said Mr. *Higgins* had then Charged any Person in that Company with speaking Treason, that the same would then have been taken Notice of by the Company, and would soon after have been publickly Reported in other Places, but the Deponent never so much as heard thereof till he read the same in the Printed Paper, Intituled, *Mr. Higgins's Case*.

Hugh Rowley.

Jurat cor. me 12 die Octob. 1711.

GODFREY BOATE.

EDWARD SWAN, Esq; deposeth, that he was present at the said Sessions some Years since, and did not hear the said Colonel *Forster*, and Sir *Richard Bulkley*, or either of them say any Thing to the Purport mention'd in the said Mr. *Higgins's* Printed Case; but on the contrary believes the same to be False and Groundless; and this Deponent hath Read the annex'd Affidavits of *John Allen*, and *Hugh Rowley*, Esqrs, and believes the same to be true in every Particular, and very well remembers the said Mr. *Higgins* rose from his Chair, and with a full Glass, and a loud Voice said, *here is Confusion to all Dissenters*.

Edward Swan.

Jurat cor. me 12 die Octob. 1711.

GODFREY BOATE.

UPON Perusal of a Printed Paper, Entituled, *Mr. Higgins's Case*, I find therein these following Words, viz. Mr. *Higgins*. I now remember I had some Words with Colonel *Forster* here, but it was upon his and Sir *Richard Bulkley's* affirming, that the Crown of *England* was Elective; That her Majesty held it from the People, and if she did not Rule according to Law, she was accountable to the People, and may be Deposed as her Father was. This I said was Treason, which I neither could then hear, nor ever will, without opposing any Man who dares say it.

Now I do hereby humbly Certify, and positively Affirm, that I have had the Honour to Serve her Majesty in the Commission of the Peace for the County of *Dublin* for these many Years past, that I was present at the Quarter-Sessions held at *Kilmainham*, and in the Dining Room there, with several other of the Justices of the Peace of the said County, when there happened some debate between Sir *Richard Bulkley* and Mr. *Higgins*, that Colonel *Forster* was then there, but that neither Sir *Richard Bulkley*, or Colonel *Forster* said or affirm'd the Words in

in Mr. *Higgins's* Cafe Scandalously fet forth, or any other Words to that Effect, as I do verily believe. And that Colonel *Forster* was a Person of more Loyalty, Honour and Prudence, than to utter any such heinous Expressions; which if they had been spoken, were so Notorious, that we should all of us then Present have taken Notice of, and Abhorr'd.

Octob. 13. 1711.

Joseph Budden.

The Above-named Joseph Budden Esq; made Oath before me, that he verily believes his above Certificate to be True.

Sworn before Me, 14 October, 1711.
GODFREY BOATE.

Joseph Budden.

WHereas the Reverend Mr. *Francis Higgins*, a Member of this House, has lately, in a Paper Printed and Published, been Represented and Charged with *Having behaved himself formerly in a manner Turbulent, and unbecoming the Character of the Sacred Function of a Clergyman*:

And whereas, he is also in the same Paper, charged with the Heinous Crimes of *Being a common Disturber of Her Majesty's Peace, and a sower of Sedition and groundless Jealousies amongst Her Majesty's Protestant Subjects*;

We the Lower-House of Convocation, think our selves oblig'd in JUSTICE to the CHARACTER of OUR MEMBER, to

Declare, That the said Mr. *HIGGINS* has ever-since his being a Member of *This House*, behav'd himself Agreeably to the Character of the *Sacred Function of a Clergyman*; and hath both in His LIFE and DOCTRINE, upon ALL OCCASIONS, shewn himself to be an ORTHODOX DIVINE, a GOOD CHRISTIAN, and a LOYAL SUBJECT.

Mr. Higgins
has been a
Member of
Convocation
since it's first
Sessions, in
1703. 12

Die Martis nono Octobris. 1711.

THE above Paper was Agreed to by the Lower-House of Convocation, *Nemine Contradicente.*

*Ita Testor Ben. Mead, Notaris Publicus,
Actuarius Deputatus.*

E*Lizabeth Farrell* came this Day before me and made Oath, That Yesterday this Deponent was brought before me by a Summons from *Balruddery*, in order to give her Testimony against the Reverend Mr. *Francis Higgins*, and by the Lord Santry's Servant brought to the *Rose-Tavern* in *Castle-Street*, into a large Room, where the Lord Santry and several other Gentlemen were; where my Lord immediately took this Deponent by the Hand in a friendly familiar manner, and brought this Deponent to a corner of the Room, and began closely to Examin this Deponent, Whether the said Mr. *Higgins* ever attempted to Debauch this Deponent? Which this Deponent said he did not. And then my Lord Santry asked, Did this Deponent hear that the said Mr. *Higgins* ever attempted to Debauch any one else? And this Deponent said, She never heard any such thing. And in a very pressing manner, Examin'd, Whether this Deponent knew any Ill or Reflecting Matter of the said Mr. *Higgins*? Which this Deponent said she did not. And several other of the Gentlemen in the Room came and pressed this Deponent and five several other Persons of the Town of *Balruddery*

ruddery, which the Lord Santry had also sent for up, to see if they could find out any ill thing against the said Mr. Higgins; And further saith they, this Deponent and the rest were treated with Wine and Meat at the said Tavern, but does not know at whose Expence.

Elizabeth Farrell
x Marks.

Jur. cor. 17 Die Octobris, Anno Domini, 1711.

T. White.

Com. Vil. *S*usanna Thornton came this Day before me, and voluntarily made Drogheda. Oath upon the Holy Evangelist, That on Saturday last being the Thirteenth of October Instant, Thomas Baker of Newtown in the County of Dublin Gent. came to her House in Drogheda aforesaid, and after having some Conference together, he the said Thomas Baker inferred as part of his Discourse, to talk of Francis Higgins of Balruddery in the said County of Dublin, Clerk. This Deponent remembring that she had formerly in her Passion Innocently and rashly spoke something of the said Mr. Higgins, and he the said Thomas Baker then asking her, wou'd she make Oath of what she had so said of the said Mr. Higgins? She then apprehending his Drift, said at length she wou'd not, and that she had no reason to speak against him the said Mr. Higgins, but that he proved unkind to her after her late Husbands Death; and also that he did not perform his Promise in paying the Five Pounds due to her on the account of James Whaley, Parish-Clerk of the said Balruddery, according to his said Promise; whereupon the said Thomas Baker said, he wou'd warrant that the said Five Pounds shou'd come to her. And further this Deponent Deposeth and saith, That on Sunday last, being the 14th Instant, My Lord Santry's Agent, or one that said he was sent by the Lord Santry, came to her said House, and asked her, Would she make Affidavit of what she had spoken to the said Mr. Baker before? She reply'd, She would not: Then he said, He would come to her the next Day. She then desired him not to trouble himself, and that she would not, and could not safely Swear any thing against him the said Mr. Higgins. However the Day following, being Monday the 15th Instant, he came accordingly, and then said, That Captain Barry would make sure to her the aforesaid Five Pounds that Mr. Higgins promised to pay her: And then she said, she had nothing to make Affidavit of, for what she had said of the said Mr. Higgins in her Passion, she would not for all the World Swear thereto, and if the said Thomas Baker had Sworn it, she doubted that he wrong'd his Conscience. The Tuesday following, being the 16th Instant, the aforesaid Person, along with the said Captain Barry, came to her said House, and then and there they set on this Depenant to make Affidavit of what the said Thomas Baker told that she had said of the said Mr. Higgins; She then desired them not to depend on what she had so said in her Passion of the said Mr. Higgins, for she would not make Oath thereto if they would give her one Hundred Pounds for so doing. Then they Threatned her and said, If she would not go willingly to make Affidavit, she would be forced to go, and be sent from Constable to Constable, and be Committed to Goal, and there be kept till she would Rot. She then said, They could not take her Life. But they returned, that she should be Ruined upon the Matter, if she would not make Oath. And further this Deponent saith not.

Susanna Thornton.

Jur. cor. me 19 Die Octobris, 1711.
Edward Singleton, Mayor.

FINIS.

P/P/ -

